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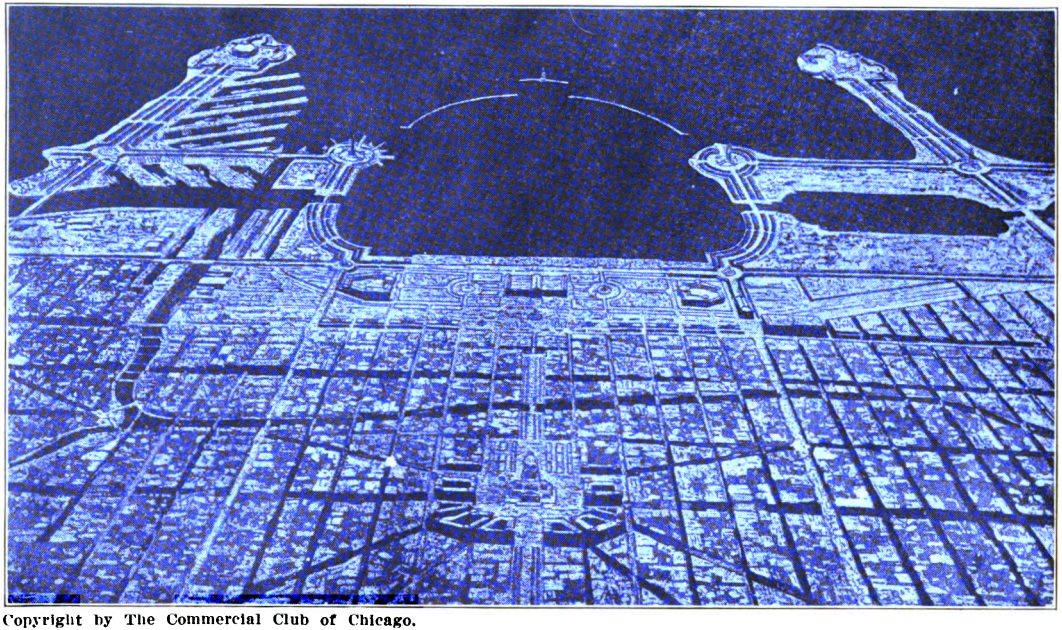

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A VIEW OF THE PROPOSED PLAN FOR THE NEW CHICAGO

Looking East over the Civic Center, showing radiating streets, Grant Park and Harbor. The most elaborate plans ever devised for city improvement. (See Page 1177.)

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THE WOMAN CITIZEN'S LIBRARY

A Systematic Course of Reading in Preparation for the Larger Citizenship

Editor

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VOLUME V

Practical Politics

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For those who wish to read more extensively the following works are especially recommended:

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M. N. Baker	Municipal Engineering and Sanitation
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Charles Baskerville	Municipal Chemistry
Charles A. Beard	American Government and Politics
Charles A. Beard	Readings in American Government and Politics
Charles A. Beard	American City Government
Ernest S. Bradford	Commission Government in American Cities
Henry Bruère	The New City Government
James Bryce	The American Commonwealth
Thomas M. Cooley	Principles of Constitutional Law
Horace E. Deming	The Government of American Cities
John F. Dillon	Commentaries on the Law of Municipal Corporations
Walter F. Dodd	The Revision and Amendment of State Constitutions
Charles B. Elliott	The Law of Municipal Corporations
John A. Fairlie	Municipal Administration
John A. Fairlie	Essays on Municipal Administration
John Fisk	Civil Government in the United States
James W. Garner	Government in the United States
Frank J. Goodnow	Municipal Government
Frank J. Goodnow	Municipal Home Rule
Frank J. Goodnow	Municipal Problems
Frank J. Goodnow	Principles of Administrative Law in the United States
Albert Bushnell Hart	Actual Government
Frederick C. Howe	The City the Hope of Democracy
Frederick C. Howe	The British City
Frederick C. Howe	European Cities at Work
Ford H. MacGregor	City Government by Commission
Frank L. McVey	The Making of a Town
William B. Munro	The Government of European Cities
William B. Munro	The Government of American Cities
Paul S. Reinsch	Readings on American State Government
Paul S. Reinsch	American Legislators and Legislative Methods
Leo S. Rowe	Problems of City Government
Charles Mulford Robinson	The Improvement of Towns and Cities
Arthur G. Sedgwick	The Democratic Mistake
Albert Shaw	Municipal Government in Great Britain
Albert Shaw	Municipal Government in Continental Europe
Adna F. Weber	The Growth of Cities in the Nineteenth Century
Delos F. Wilcox	The American City
Delos F. Wilcox	Great Cities in America
W. W. Willoughby	The American Constitutional System
Woodrow Wilson	The State
Woodrow Wilson	Congressional Government
S. Winery	Municipal Public Works
Charles Zueblin	American Municipal Problems
Charles Zueblin	A Decade of Civic Improvement

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Local Government

PART III

Municipal Government

CHAPTER I

THE AMERICAN CITY

WE NOW come to the last and most important branch of local government in the United States, City Government. The systems of government described in the preceding volume were designed for rural and sparsely settled communities; Part III of the present volume deals with the infinitely more complicated and complex system which has been devised to meet the needs of urban communities.

(1) Importance of City Government. A feature of the recent New York budget exhibit was the likeness of Father Knickerbocker, life size, gazing in wonderment upon some statistics relative to the city of which he is the personification. New York, the second largest city in the world, population 5,000,000. A city with more Jews than there ever were in Palestine; more Germans than in any city of Germany except Hamburg and Berlin; more Bohemians than

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there are in Prague; and more Italians than there are in Rome! 1,500,000 increase in ten years—equivalent to the combined populations of Boston, Kansas City, and San Francisco. More people respond to the authority of the mayor of New York than did to the first President of the United States; and the employes of the city constitute an army larger than marched with Sherman to the Sea. Area, 327 square miles. 5,000 miles of highways; 2,000 miles of sewers; 341 miles of water front. A birth every four minutes; a death every seven minutes; a marriage every eleven minutes! Annual school bill, $30,000,000; $15,500,000 for police protection; $8,250,000 for fire protection; $10,000,000 for charities; cost of a single election, $1,050,000! Bonded debt, $800,000,000; annual budget, $175,000,000!

These figures give but a general idea of the immensity to which our city business has grown. The expenditures of Chicago, St. Louis, Philadelphia, and Boston are second only to those of New York. Compared with the aggregate expenditures of our cities, the expenditures of our national government shrink to insignificance. Even the construction of a Panama Canal does not greatly outclass in magnitude the project of New York's new water supply, and a dozen cities are confronted with undertakings only less stupendous. It is only necessary to compare the amount of taxes raised in any city for local purposes and the support of the city government with those raised for

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state and county purposes to get an idea of how intimately the government of every city affects its citizens.

Nor are these financial and political problems the only or most difficult problems which the city presents. There are economic and social problems even more knotty and difficult to solve. Questions of proper housing, the elimination of the slums, the prevention of the white slave traffic, vice, and drunkenness, and of the protection and development of children in the cities—all these are problems for whose solution we would be willing to pay well if we could find one satisfactory. The social problems of the city, or rather the social aspects of the problems of the city, for the social, political, and economic problems are all bound up together, are the most perplexing with which the city administrator has to deal. National problems are largely matters of policy, as are also state problems, but municipal problems are problems of every-day life, problems of preserving the proper setting for the home and the proper atmosphere for its enjoyments and benefits. And these are becoming increasingly numerous and complex as the population of our cities grows apace.

(2) Growth of Cities. The growth of cities was one of the most striking characteristics of the nineteenth century.[1] At the time of the adoption of the federal constitution we were a rural and an agricultural nation; only 3.3 per cent. of the population lived in cities. There were only six cities with a popula-

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tion exceeding 8,000. Today, 46.3 per cent. of the population of the United States are living in cities of 2,500 or over, and there were 2,405 such cities in 1910. There were 603 cities of 10,000 population and over as compared with the six cities of 8,000 in 1790. And in many states the percentage of the population living in cities approaches 90 per cent. In Rhode Island, for instance, over 95 per cent. of the population is living under urban conditions. In Massachusetts 90 per cent. live in cities, while in New York over half of the population of the state is found in New York city alone. Even in the western prairie states the urban population is increasing much faster than the rural. And the remarkable thing about the growth of urban population is the rapidity with which some of the American cities have grown to their present size. In but little over 100 years New York has grown from a city of thirty thousand to one of nearly five million, and is now increasing nearly 4 per cent. per year. Chicago in half that time has grown from a village to a city with a population of over two million. "In 1907 there was still alive in that city the first white person born within its present limits." Seattle, Tacoma, and other western cities are more recent examples of phenomenal urban growth with which we are all familiar. Forty-two million of our population are city dwellers, and if we include villages which are incorporated 50,500,000, or 55 per cent., of

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our inhabitants are residing under conditions which are urban in character. Surely the twentieth century belongs to the city.

The causes of city growth have been both economic and social. Improvements in agricultural machinery and methods have divorced men from the soil,[2] have made it possible for a smaller part of the population to raise enough for the food supply of the entire population, leaving large numbers free to go to the city and engage in commerce and industry. One man with a machine can often do more work than a dozen formerly could. It has been estimated that on the large farms of the West, which often reach 40,000 to 50,000 acres, 400 farm hands can raise as much grain as 5,000 peasant farmers. On the other hand, the demands of commerce and industry draw men to the cities in increasing numbers. The introduction of machinery and the factory system, large scale production with its division of labor, the attraction of one industry for allied industries, and the demand for banking, merchandising, and communication facilities which they create, and the marvelous development of transportation which has extended the market to world-wide proportions and greatly reduced the obstacles of time and space, are all economic forces which are impelling men toward the cities. Then there are social advantages in the cities which have greatly contributed toward their growth. The city is the place of social

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attractions and intellectual advantages. There are the theatres, the libraries, the colleges, the parks, and the opportunities for amusement, recreation, and sociability. There are the opportunities for promotion and advancement, jobs, chances, variety, excitement, novelty, and change. All these are social forces which draw men to the cities. And progress hastens the migration.

Political, educational, and religious causes also work sometimes to develop cities, as in the case of national capitals, university towns, and cities like Salt Lake City, Zion City, etc.

(3) Consequences of City Growth. The concentration of population in cities has had social, economic, and political consequences of far-reaching importance. The social results have been hinted at already.[3] The city has replaced the simplicity, freedom, and equality of country life with the complexity, dependence, and inequality of life in the city. It has increased the opportunity for vice, crime, and disease, has undermined the family, and impaired the home. It has collected a heavy price for the advantages which it offers. It has sent women and children to the shops and factories, taxed virtue, increased poverty and suffering, and created the tenement and the slum. It has modified the economic standing of society. The city has made the rich richer and the poor poorer. The city dweller has become a tenant. Only 4 per cent.

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of the population of New York City own their own homes. It has destroyed the industrial independence of its citizen. There is therefore a loss as well as a profit account to the growth of cities.[4]

But it is the political consequences of the growth of cities that we are here concerned with. It is in the city that democracy has been put on trial, and subjected to its most trying test. These new urban conditions have increased enormously the problems of local government. Our old political philosophy has broken down under the strain.[5] Before the city appeared to shatter our political ideals, government was looked upon as a necessary evil. A minimum of government and a maximum of individual liberty represented the ideal political status. But the concentration of population and the growth of great industrial centres have given a new meaning to government. We are not only dependent upon the government for the protection of our property, but for the protection of our health, happiness, and prosperity. We must depend upon the local government for the protection of our water supply, our milk supply, and our food supply, for the sanitary condition of our homes, for convenience in carrying on our business over the streets of the city, and for the education, safety, and welfare of our children. The dweller in the city is dependent upon the city government for protection in almost every activity of life. Thus the government of the

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city has changed from a necessary evil to an indispensable benefit, and upon its efficiency depend the health, wealth, and welfare of its inhabitants.

Not only has the growth of cities modified our political philosophy, but it has actually modified the structure of our governmental organization. As city life has broken down the traditions of rural life, so have city conditions modified the old forms of government. The city has played a destructive role in politics. The town meeting cannot govern in the metropolis. New forms of government have therefore had to be devised. From the city have originated most of the political reforms of the last few decades, the initiative, referendum, and recall, the direct primary, commission government, and modifications in state administration made necessary by the necessity of closer supervision of local affairs and the control of public service corporations. We are at the present time passing through a period of experimentation with the forms of municipal government in an effort to adapt the form of governmental organization to the peculiar needs of these urban conditions brought about by the growth of cities, and to secure efficiency in the administration of municipal affairs.

(4) Legal Position of the City. As in the case of the other units of local government, the town, county, and village, the city occupies a two-fold position: it is an agent of the state, and an organ for the satisfaction of local needs. As an agent of the state,

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HOW THE "OTHER HALF" LIVES
Scene in a Tenement Section, New York

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it administers certain functions for the state. Thus in the collection of state taxes, the conduct of state elections, the administration of the schools, care of the poor, protection of health, maintenance of peace and order, and the administration of functions of importance to the people of the entire state, the city acts as the agent of the state. As an organ for the satisfaction of local needs, it operates water works, lighting plants, and garbage crematories, maintains streets, sewers, docks, bridges, and public markets, furnishes libraries, museums, bath houses, auditoriums, and other institutions, and performs many other functions of interest largely to the people of the locality alone. In its private capacity it often carries on other business enterprises, such as stone quarries, ferries, theatres, street railways, and tenements and lodging houses, and in all these acts as a local corporation and not as an agent of the state.

It has been the state functions of the city that have determined its legal status to a large extent. As pointed out in the chapter on the American Constitutional System, the city is dependent upon the state for its legal existence, and the state legislature has oftentimes lost sight of the local character of many of the functions which it performs. The power of the state legislature has sometimes been used to interfere in purely local affairs. Mention has already been made of the act of the Pennsylvania legislature requiring the taxpayers of Philadelphia to build a new city hall at an expense

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of $20,000,000. The Ohio legislature at one time required the city of Cleveland to erect a soldiers' monument at a cost of $300,000 against the wishes of the taxpayers of the city. New York, Chicago, and other cities have frequently suffered in the same way. The abuses of such interference finally led to constitutional prohibitions being adopted in many states designed to prevent the grievance. In over twenty states there are now constitutional provisions prohibiting the passage of special legislation, that is, acts applying to a particular city. In some states, however, this prohibition has been evaded by the creation of a large number of classes of cities according to population, and the passage of general laws for each class. It frequently happens that there is only one city in a class. That is the case in Wisconsin, although the practice has not been abused in that state to any extent. Cities are divided into four classes: those having a population of over 150,000 constituting the first class, those of 40,000 to 150,000 the second class, those of 10,000 to 40,000 the third class, and those of less than 10,000 the fourth class. Milwaukee is the only city in the first class and as yet Superior is the only one in the second class, although Racine, Oshkosh, and several other cities will soon enter that class. Where these classes have been based upon reasonable grounds the courts have usually upheld the classification.

The city is a creature of the state legislature. Its organization, powers, and privileges are determined by

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the constitution and laws of the state as a general rule. In the absence of constitutional limitations, the state legislature could abolish the city government and take over its administration at any time. In most states it could appoint most of the city officials. In practice the legislature creates the city into a municipal corporation and confers upon it the powers of local government as well as the administration of many state functions. Under the American system, therefore, the city has only those powers which the legislature confers upon it. It is, like the national government, a government of delegated powers. And as in the case of the federal government, the courts have strictly construed these grants of power.

(5) Municipal Incorporation. Cities are usually created municipal corporations by act of the state legislature. This is usually done by a legislative act called the charter, which creates the city a body politic and corporate, fixes its boundaries, determines its form of organization and enumerates its powers and duties. The powers of the city are usually enumerated in detail. It has the power to do those things which are named in the charter and no others. Thus when New York wanted to build an elevated railway, it had to secure express authority from the legislature, that power not having been enumerated in the charter. Likewise when Chicago wanted to pass a wheel tax ordinance fixing the width of wagon tires and taxing vehicles for the maintenance of the streets, it had to secure an amend-

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ment to its charter granting it the right. A little town in Wisconsin recently built a new city hall and included in it a modern theatre, but before it could operate the theatre itself it had to secure the passage of an amendment to the general charter law giving cities of that class the right to do so. There are a few cities whose charters have contained grants of power in general terms covering the management of local affairs, but the general practice has been to enumerate the powers in detail, and the courts have held that by so doing the legislature has forbidden the exercise of all powers not enumerated. On the other hand the charter may be repealed or amended at any time on the initiative of the legislature. Thus, legally, a city may be deprived of its charter and governed directly by the legislature or in any way it may determine. This has been done in certain cases. The charter of Memphis, Tennessee, was repealed in 1879 during the yellow fever epidemic in that city, and the city was governed for three years by a commission appointed by the governor of the state.

Formerly special charters were granted to each city. When a city wished to become incorporated as a city or to secure a new charter, application was made to the legislature. Usually the charter was prepared by a committee of citizens along the lines they desired and then presented to the legislature for passage. If everything went well and the politicians did not interfere, it was usually passed as presented. But this took up

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much of the time of the legislature and offered great opportunities for favoritism and the use of improper influences in securing or defeating the passage of such laws, and a system of general charter laws was adopted. This practice is now followed in most states. The cities are divided into classes and a general charter law is passed for the various classes which may be adopted by any city of that class. The usual method of adoption is by popular vote. An election is held for the purpose of deciding whether or not the city shall become organized under that law. If a majority vote in favor of the proposition it is adopted and the law becomes the charter of the city. Some states make the general charter law mandatory; others pass several such laws and leave it optional with the city which law it shall adopt. Many of the recent commission government laws are of this character. The advantages of the general charter law are that it relieves the legislature of a great amount of special legislation, removes the temptations to corruption, and tends to make the organization of city government uniform throughout the state. Under the special charter plan, the charter of every city differs from every other city, and not only the study but the supervision of city administration is correspondingly difficult. Under the general charter plan municipal organization is uniform within each class.

(6) Municipal Home Rule. The difficulty of securing desired legislation from the legislature, the in-

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ability of the legislature to deal adequately with local affairs, and the corruption that has followed in the wake of special legislation, together with the feeling that the people concerned should be given the power to frame the charters under which they are to be governed, has led to the incorporation in many state constitutions in recent years of the principle of "municipal home rule." These constitutional provisions provide that the people of each city shall, within certain restrictions, frame their own charters. Missouri was the first state to adopt this plan, the principle having been included in the constitution of 1875 for cities having a population of 100,000 or over. Since then it has been incorporated in the constitutions of eight states —California, Colorado, Michigan, Minnesota, Oklahoma, Oregon, Texas, and Washington.

In these states, therefore, cities frame and adopt their own charters. An election is held to determine on whether or not a new charter or a revision of the old charter is desired. If a majority vote in favor of this proposition a charter commission is elected to frame a charter. After being published this charter is submitted to a popular election for adoption. If a majority vote in favor of its adoption it is adopted and becomes the charter of the city; but if a majority vote against it, it is rejected and the city continues as before. Amendments to the charter may be enacted in the same way. The theory of home rule is based on the idea that the people of each locality know the needs of the

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locality and can determine the form of organization best adapted to it better than a state legislature composed of members from different parts of the state who must necessarily be unfamiliar with the conditions under which the charter must be administered. It is an advanced step in local self-government. Its only serious disadvantage is that it makes impossible a uniform system of municipal administration in the United States.

It is interesting in connection with municipal government to note the disparity between the great American theory of "government by the people" and its application to the government of cities. As we have seen, state legislatures have always kept a tight rein on city governments. This has been done, however, through legislation rather than through administration. Cities have been denied many powers which they should have had; the residents of cities have been denied many rights which under the American theory of self-government they were entitled to, and which have uniformly been enjoyed by the residents of European cities. This, perhaps, has been one of the causes of poor city government in the United States as compared with that of many European cities. It has been too difficult for cities to secure from the legislature the power to do things in an efficient way. But the movement for home rule is growing and will in time remove the cities from the dominance of the legislature. On the other hand there is a marked tendency to sub-

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mit cities to a closer supervision in questions of administration. We have had too little home rule in the framing of city charters and too much home rule in matters of administration. Closer supervision by expert state commissions will undoubtedly increase the efficiency of city administration in many lines.

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SUPPLEMENTARY READING

CHAPTER I

The American City

[1] A Century of Cities.—

1790.

Population of the United States.....3,929,214
Population of cities of 10,000 and more..... 123,551
Proportion living in cities of 10,000 or more.....3.14 per cent

1891.

Population of the seven colonies of Australia.....3,809.895
Population of cities of 10,000 or more.....1,264,283
Proportion living in cities of 10,000 or more.....33.20 per cent

That the most remarkable social phenomenon of the present century is the concentration of population in cities is a common observation, to which point is given by the foregoing comparison of two typical countries of different centuries. The Australia of today has the population of the America of 1790; it is peopled by men of the same race; it is liberal and progressive and practical; it is a virgin country with undeveloped resources; it is, to an equal extent, politically and socially independent of European influence. But Australia is of the nineteenth, rather than of the eighteenth century; and that is the vital fact which explains the striking difference in the distribution of population brought out by the introductory comparison. What is true of the Australia of 1891 is, in a greater or less degree, true of the other countries in the civilized world. The tendency towards concentration or agglomeration is all but universal in the western world.— *A. F. Weber, "The Growth of Cities," p. 1.*

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One of the observations at the present time most commonly made of the civilization which owes its origin to western Europe is that the cities are increasing in the number of the inhabitants faster than are the rural districts. Thus by the last census of the United States it is shown that in the year 1900 the 160 principal cities contained 25.9% of the whole population of the country. The population of these cities had grown to that proportion of the whole population from 23.6% in 1890. The increase of the population of these cities from 1890-1900 was 32.5% of their population in 1890, while that of the population outside of these cities had been in the same period but 17.2%.

What is true of the United States seems to be true as well of all the states in western Europe. Thus in England and Wales the total urban population, defining that term as the population residing in places of three thousand inhabitants and over, increased in the period from 1881-91 at the rate of 15.4%, while the rural population increased only at the rate of 3%. In France, the urban population, defining that term as the population residing in areas where there were two thousand or more people living in contiguous houses, increased during the period from 1886-91 at the rate of 37.4%. The rate of increase in the preceding five years had been 35.9%. In France in the last ten years the rural population has not only relatively, but absolutely decreased, the actual decrease from 1886-91 having been 420,495. In Prussia the urban population, i. e., the population living in places of two thousand and over, was in 1890 38.38% of the total; in 1895 it was 40.66%. In Germany as a whole the total increase in the population from 1885-90 was 10.7%; in the twenty-five large cities it was 35.5%. In Austria the population increased between 1880-1890 at the rate of 7.91%; in the cities of more than ten thousand inhabitants, at the rate of 33.06%. In Belgium in 1846 the cities of one hundred thousand and over had 6.8% of the population; in 1890, 17.4% and the total urban population was in 1880, 43.1%; in 1890, 47.5% of the total population. In Italy the population of places of six thousand and over was in 1871, 24.93%; in 1881, 27.02% of the total population. In Spain the population increased from 1857-87 at

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the rate of 13.6%, that of the fifteen cities at the rate of 43%. In fact, there is no state in western Europe in which the rate of increase of the urban population is not greater than that of the rural.

In Australia, also, where western European civilization is to be found, we find the same tendencies. Thus in New South Wales the cities of ten thousand inhabitants contained in 1851, 28.2%; in 1891, 33.6% of the population. In Victoria, the same class of cities had in 1851, 30%; in 1891, 46.1% of the entire population.

In countries not possessing western European civilization we do not find, however, the same conditions. Thus the urban districts contain in Russia proper only 12.5% of the total population; In British India, only 9.22%; while in Bengal, only 4.82% of the population of over 70,000,000 are to be found in the urban districts. In China, however, it is estimated that the fifty-two cities above one hundred thousand have 22% of the population.

Finally, a glance at the decennial census reports made during the nineteenth century will show that the relatively greater increase of the population of the cities is of comparatively recent origin. The statistics relative to this phase of the subject in the case of the United States are not very informing. The rapid, although somewhat intermittent development of the means of communication may be the cause of the somewhat confusing variation in the rates.

When we come to consider the European countries, however, we find very significant facts connected with their urban development. It is seen thus that the period 1821-1851 was in England a period of concentration, and in this period the two decades, 1821-31 and 1841-51, are especially marked. In the first, the rate of increase of most of the English cities was most remarkable, some of them increasing at a rate of 60% and over. This was a period of great industrial activity, the number of pounds of cotton imported having increased from 51,000,000, in 1813, to 287,800,000 in 1832, and 489,900,000 in 1841. It was also during this period that railways were first built. The first railway was

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built in 1830; by 1840 there were 800, and in 1850 6,600 miles of railway. In France the urban development began somewhat later than in England. The year 1831 may be taken as the beginning; in 1851 urban population had increased greatly and continued to increase until 1871, when it fell off considerably. This increase is, as in England, coincident with the industrial revolution, which began in France shortly after the political revolution of 1830.

In Germany the concentration of population in cities was not noticed until after 1852, and is particularly marked after 1880. The changes in the industrial system, which seem to have been followed by an increase in the urban population, did not take place in Germany until after 1840. Even as late as 1850 only 5,856 kilometers of railway line had been built. By 1848, however, the industrial revolution was completed. The successful termination of the French war in 1871 made the political union of Germany possible, and was followed by great commercial and industrial expansion.

It may thus be said that urban development is a characteristic of modern western civilization, and, in the form in which we find it at the present time, a comparatively modern phenomenon. The problems incident to it are thus new rather than old. Certainly their solution makes more insistent demands than ever before. For never before in the history of western civilization did such a large proportion of the people live in urban communities as at the present time.—*F. J. Goodnow, "Municipal Government," pp. 4-7.*

[2] **Divorce from the Soil.**—What now are the causes of this urban growth? First, it may be said that mere density of population is not the cause, since Bengal, with a large population, has a low percentage, while Australia, with a sparse population, has a high percentage of urban population. In the case of Bengal, the occupation of the people is in the main agricultural, and the character of the agricultural system is very primitive; great reliance is placed on manual labor, almost none on machinery. The result is that, notwithstanding the fertility of the soil, the agricultural labor of most of the people is required in

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order to sustain the population. None, roughly speaking, can be spared for occupations not of an agricultural nature. In other words, the rural districts demand for their cultivation, under existing methods and conditions, the services of practically the entire population.

When, however, we turn to Australia, how different are the conditions! The land is very commonly not adapted to distinctly agricultural pursuits. It is either so arid as to make them impossible, or it so far away from the market, in which agricultural products may be sold, as to make the raising of distinctly agricultural products unprofitable. It is, however, wonderfully adapted for the raising of cattle, sheep, horses, and markets are readily obtained for live stock and wool. The natural result is that the country is devoted to pastoral rather than agricultural pursuits. Comparatively few people are required to devote themselves to the distinctly rural occupations, suitable to the country, i. e., to the direct raising of wool and live stock, and a considerable number of people devote themselves to occupations largely commercial in character, which are necessary in order to market the products raised. The result is that in Australia large urban communities have sprung up as the homes of those who devote themselves to the commercial occupations made necessary by the pastoral character of Australian economic conditions. This result is reached although industry has hardly been developed at all in Australia.

We may say then that urban communities are possible only where economic conditions are such that a portion, at least, of the people living in the country can obtain their livelihood from some occupation, not immediately connected with the soil. As Dr. Weber puts it, cities are possible only where at least a portion of the inhabitants are divorced from the soil.

When trade is bounded by arbitrary political lines, or is local rather than general in character, we may say further that cities are possible only where there is a back country tributary from a political point of view either to the city itself, in which case we usually find the form of city known as a city state, of which Venice was at one time a good example, or tributary to the

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large state of which the city is a part, in which case we find some form of national state, such as Rome, after she had extended her influence over Italy, and the modern western states.

Where, however, a world trade has been developed it may well be that a whole country may become urban in character. In such a country we may find cities of great size with no hinterland tributary to them, all devoted to commercial or industrial occupations. Such a country may not contain sufficient land under cultivation to sustain its population or to give it raw materials in sufficient quantities to keep its industries alive, but may be obliged to import both agricultural products and raw materials from distant points beyond its boundaries.

Such is the condition in England and Wales, whose urban population is 72% of their entire population. England imports most of her food stuffs from the United States and Australasia, her cotton in large degree from the United States, and her iron from Spain. She is thus able to support an enormous urban population, although she does not produce enough food or raw materials in her own boundaries for the needs of even a comparatively small part of her people. From a political point of view her position may be a precarious one, but from an economic point of view it is doubtful whether she is at a great disadvantage with the United States, where the Lake Superior iron ores and the western wheat fields are far distant from the industrial centers, although they are within the political boundaries of the United States.

Scarcity in agricultural labor will, however, often have the effect of improving agricultural methods. For divorce of man from the soil often results from some change in the commercial or industrial situation by which men are tempted from agricultural pursuits into commerce or industry. This is what actually occurred in England in the eighteenth century. The invention of the spinning jenny and the improvement of the loom made spinning and weaving more profitable than work in the fields. The scarcity of agricultural labor had for its effect great improvement in agricultural methods. Common lands were enclosed. These were better cultivated than they had been. The yield

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of wheat per acre went up from seventeen to twenty-six bushels per acre. Scientific stock breeding followed. Beeves weighed at the Smithfield market, 370 pounds in 1710, 800 pounds in 1795.—*F. J. Goodnow, op., cit., pp. 7-10.*

[3] **The Profit Account.**—The bouleversement of society, this change from the country to the city, from individualism to communalism, from the self-sufficient household to the self-sufficient city; this shifting of the center of life from the individual to the many, from isolation and independence to unity and dependence, has been accompanied by gains and losses to society. The city has woven our lives into the lives of others. No longer is each household an independent one, producing for its own wants alone and supplied from within. The texture of the fabric has been altered. It is now closely woven. And this change is far more than an industrial one—a mere adjustment of mankind to his work. It is but part of man's desire for a larger life, for freer social intercourse, for amusement, as well as a response to the industrial revolution which has superseded domestic industry by the machine.

Within the city the game of life is played, and there are many capital prizes. Here, opportunity and fortune are to be found. Here business centers. Here life is full and human. The farm offers none of these things. It is barren of great possibilities; barren even of a living, the farmer says. The city is El Dorado, the promised land which fires the imagination. Failure may come, it is true, but there is the chance, the life, movement, and recreation even in failure. The saloon is something, while the streets, the parks, the theatre, the church, one's fellows, all make up the canvas of life even to the poorest.

And the city has given the world culture, enlightenment, and education along with industry and commercial opportunity. The advance in recent years in this regard has been tremendous. Compare our London, Paris, Berlin, or New York with these cities fifty years ago. Then life in any large sense was limited to a few. Today, to an ever-increasing mass of the population, opportunities are crowding one upon another. Not only is education generously adapted to the needs of all, but night schools,

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art exhibitions, popular lectures and concerts, college settlements, the parks, playgrounds, a cheap press, labor organizations, the church, all these are bringing enlightenment at a pace never before dreamed of. Day by day opportunities gain in volume. A decade almost encompasses the history of such movements for democratic opportunity.

All this is enlarging life, modifying our civilization, deepening the significance of democracy. It is rendering possible a higher standard of living. A new conception of municipal purpose has come in. It is neither conscious nor defined as yet, but in the midst of the outward manifestations of municipal activity an unrecognized broadening of the culture and life of the city is going on, of immense significance to the future.

Much of this is being expressed through private channels. But that the private activities of today will become the public ones of tomorrow is inevitable. The crèche, kindergarten, settlement, playgrounds, public baths, lodging houses, hospitals were inspired by private philanthropy. They are slowly passing under public control. Merely to enumerate what has been done during the past few years in the matter of school administration would form a chapter in itself. The same is true of the care of juvenile offenders. It is manifest in every department of city affairs. The possibility of life is increasing more rapidly than at any other period in the history of the world. It is less than a decade since Josiah Quincy, while mayor of Boston, proposed the erection of public baths and gymnasiums and the opening of playgrounds in the poorer sections of the city. When made, the suggestion was assailed as socialistic. Today, without protest, the city of Boston expends $500,000 annually for parks and playgrounds and over $100,000 annually for baths and gymnasiums. Over $3,000,000 has been expended for these purposes in a few years' time. There are now twenty-one playgrounds in the city; while summer camps, public concerts, bathing beaches, and public lavatories have still further added to the comfort of the poor. During this interval appropriations for these purposes have crept into the budgets of nearly all of our large cities, while kindergartens, summer schools, manual training, free lectures, and pub-

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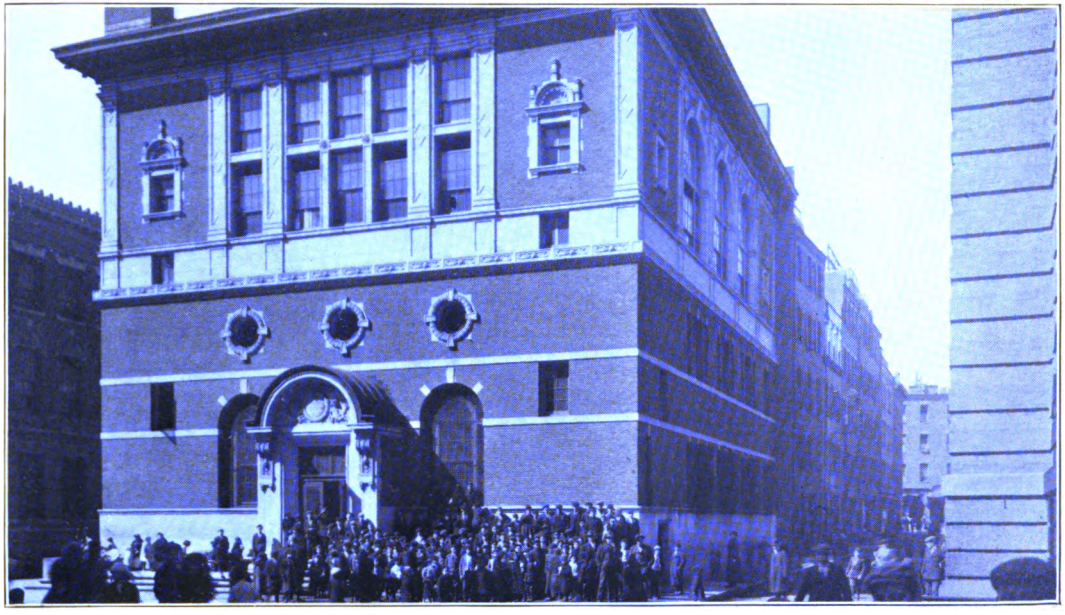

MUNICIPAL BATH HOUSE, BOSTON, MASS.

Boston expends annually over $100,000 for public baths and gymnasiums.

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lic concerts are rapidly finding a place in city administration along with the expenditures for police, fire, and health protection.

But such a schedule of items is but a small part of the gain which civilization has made through the city. They are but evidences of the fact that life has become a social, not a sordid thing. The entire groundwork of society is being relaid under a system of closer political relationship. But a few generations ago, civilization was based on individualistic lines. The city has brought us whatever sense of social responsibility we now have. In a sense all this is socialism. We do not call it that. But neither does the German nor the Englishman call the undertakings of his city socialistic.

The humanizing forces of today are almost all proceeding from the city. They are creating a new moral sense, a new conception of the obligations of political life, obligations which, in earlier conditions of society, did not and could not exist. Step by step individual rights have been merged into larger social ones. And it is this very increase in public activities that renders the city as attractive to the rich as it is to the poor. In earlier days, even the most elementary public functions were performed by the individual. He paved, cleaned, and lighted the street before his door. He was his own constable. Such health protection as he enjoyed was the result of his own vigilance. Education was conducted at home or by the church. The library was a priestly possession, as was all learning. His house was his castle, even in the midst of the city, and society offered him little save the administration of justice and protection from foreign foes.

Today the city protects his life and his property from injury. It safeguards his health in countless ways. It oversees his house-construction, and protects him from fire. It cleans and lights his streets, collects his garbage, supplies him with employees through employment bureaus. It educates his children, supplies them with books, and in many instances with food. It offers him a library, and through the opening of branches almost brings it to his door. It offers nature in the parks; sup-

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plies him with opportunities for recreation and pleasure through concerts, lectures, and the like. It maintains a public market; administers justice; supplies nurses, physicians and hospital service, as well as a cemetery for burial. It takes the refuse from his door and brings back water, gas, and frequently heat and power at the same time. It inspects his food, protects his life, and that of his children through public oversight of the conditions of factory labor. It safeguards him from contagious diseases, facilitates communication upon the streets, and in some instances offers opportunities for higher technical and professional education.

All these intrusions into the field of private business have involved no loss of freedom to the individual. Every increase of public activity has, in fact, added to personal freedom. Whatever the motive, the real liberty of the individual has been immeasurably enlarged through the assumption of these activities by the city.

And all this has been achieved at an insignificant cost. The expenditure of the average city of over a quarter of a million inhabitants ranges from $16 to $34 per capita, or from $60 to $136 per family, a sum which would scarcely pay for the education of a single child at a private institution. And while incompetence, extravagance, and frequently corruption have accompanied much of it, there are few who would contend that the private watchman is more efficient than the public fireman, that private education is better than public education, that the supply of gas from a private company is cheaper or better than the supply of water under public control.—*F. C. Howe, "The City the Hope of Democracy," pp. 24-30.*

[4] **The Loss Account.**—But along with the gain there is a loss account, a terrible loss account. The city has replaced simplicity, industrial freedom, and equality of fortune with complexity, dependence, poverty and misery close beside a barbaric luxury like unto that of ancient Rome. Vice, crime, and disease have come in. The death rate has increased, while infectious diseases and infant mortality ravage the crowded quarters. The city has destroyed the home and substituted for it the hotel,

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flat, tenement, boarding house, and cheap lodging house. Our politics have suffered, and corruption has so allied itself with our institutions that many despair of democracy. The city exacts an awful price for the gain it has given us, a price that is being paid in human life, suffering, and the decay of virtue and the family. Just as in mediaeval times, some of the burghers of a beleaguered town paid the forfeit of their lives that the others might live, so the modern city avenges itself upon humanity by vicariously taking of those who risk her favor.

According to the investigations of Charles Booth, a London-born family disappears in about three generations. Human life seems to require a ground wire to the sod, a connection with Mother Earth to maintain its virility. According to Mr. Galton, only about one-half as many children of artisans grow up in a typical manufacturing town, as in the case of children of laboring people in a healthy country district. In the abyss of London, Paris, Berlin, New York, and Chicago, the family often ends with itself. It dies of town disease. The whirlpool of city life claims all in time. Those who fail, it claims at once. Were it not for the steady stream of rugged strength from the countryside, the city would ultimately lose its population.

And it is not alone those who win who have made the city. The police court docket produces such headlines for the daily press as: "Once a Millionaire," "Formerly a Leading Professional Man," "At One Time a Leader in Society, Now in the Workhouse." These failed. But they did not always fail. And the unnumbered thousands who have come to the city, the artisans, workmen, girls who gave their life to work so long as work was to be had, are part of the same sacrifice. They form the hecatomb of human life that the modern city, like an Oriental idol, exacts from society. And it is they who have built our homes, manned our industry, and amassed the wealth that they did not enjoy. Through them, wealth, and culture have come. They are like the toilers of the hive, who by some hidden secret of nature fulfil their destiny in death for the well-being of the swarm.

Out of the three million five hundred thousand inhabitants in

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the great area of metropolitan New York, there are but twenty-five thousand persons who appear upon the tax assessor's books as owners of personal property. But one person out of every one hundred and forty possesses sufficient property to warrant a return under the general property tax. And the number of persons owning real property is not much if any more. For in our cities the dweller has become a tenant. Mankind has been dispossessed of the soil. In Greater New York scarcely four per cent of the families live in their own unencumbered homes, while on Manhattan Island, the percentage falls to two per cent. The city has given birth to a landless proletariat. The growth of population does this. Society creates a value and then is charged for the privilege of enjoying it. And neither thrift, economy nor prudence can prevent it. For the average city dweller, even though he saved all of his earnings, could not possess himself of a freehold, or live upon it once secured.—*F. C. Howe, op. cit., pp. 30-34.*

[5] **Political Consequences of City Growth.**—It is evident that the mere fact of a change of environment from rural to urban conditions is certain to work profound changes in political ideas. The disintegrating effect of a new environment upon accepted traditions and standards of conduct is one of the fundamental laws of social change. The transition from rural to city life has acted as a solvent of this kind. So powerful has been its influence in this direction that many thinkers have ascribed to city life a purely destructive rôle, undermining all accepted ideas, traditions, and beliefs. While such a generalization is both hasty and premature, it is explained readily by the fact that up to the present time the conspicuous function of city life has been to break down the social and political standards developed under rural conditions. To take a concrete instance—during the early period of our national development the conditions of rural life strengthened that negative attitude of the American people toward government which we inherited from the struggle with the British crown. We have been accustomed to regard protection of property rights as the real and usually the only legitimate field of governmental action.

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Beyond these limits state activity is called state "interference"—an encroachment upon the liberty of the individual.

It is comparatively easy to explain this attitude when we consider the character of the early settlers. In any new country the pioneers are, by a process of natural selection, the most energetic and independent. They constitute a population trained to depend upon themselves and with little sympathy for schemes involving governmental coöperation. With them, intense individualism finds unquestioned acceptance.

With increasing density of population new standards of governmental action are forced upon the community. One of the first effects is to make apparent the necessity of regulation in the interest of the public health and morals. The patent facts of everyday life demonstrate the evils of unrestrained individual liberty, which is the first step toward a broader interpretation of the regulative functions of government.

The next step in the development of a new concept of governmental action begins with the undermining of faith in the effectiveness of free competition as a guarantor of efficient service and a regulator of progress. No one who has followed the trend of opinion in the large cities of the United States can have failed to observe the gradual awakening to the limitations of free competition. The facts of corporate combination and consolidation, particularly in such quasi-public services as the street railway, gas, and water supply, have done more to bring about a truer appreciation of the relation of the community to industrial action than any amount of discussion.

The general appreciation of the tremendous power at the disposal of the community exerts a powerful influence upon the political ideas of the urban population. The rapid extension of municipal functions during the last few years is an indication of a marked change of attitude toward the municipality. This does not necessarily mean that we are approaching a period of municipal socialism in the ordinary acceptation of the term. Ultimately, the industrial activity of the municipality may be relatively less than it is at the present time. The change in political ideas will be in the direction of demanding of the

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municipality the physical conditions for the best utilization of the industrial possibilities of the individual and for the gratification of his aesthetic tastes.

While these changes in the attitude of the population toward government constitute the most important of the consequences directly traceable to the influence of city life, there are unmistakable indications of important modifications in our ideas of governmental structure due to the same set of causes. The organization of our government — national as well as state — has been determined by a political philosophy inherited from the English Whigs of the eighteenth century. The central thought of this philosophy is the belief in a governmental mechanism acting through "checks and balances" and designed to prevent the abuse of power. Concerted action among the various organs of government was what the English middle class of the eighteenth century feared most. It was felt that the individual could be protected from the tyranny of government only by allowing one organ of government to counteract the action of another. Division of power was regarded as essential to the preservation of individual liberty. To these political ideas and standards the American colonists fell heir. It is not surprising, therefore, to find this theory determining the organization of our state and national governments.

The popular faith in the efficiency of this form of government was so great that the unsatisfactory working of the system was ascribed to imperfections in the mechanism rather than to any inherent defects of operation. Instead of subjecting the system to a thorough examination to ascertain whether it was adapted to the kind of problems with which the city has to deal, attempts were made to patch defects by means of minor changes in organization.— *L. S. Rowe, "Problems of City Government," pp. 97-104.*

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CHAPTER II

MUNICIPAL ORGANIZATION

AS THE English system of local rural government served as a model for town and county government in America, so the English borough served as a model for American municipal government. Both the English organization and the theory of the English law were adopted and have largely determined the development of municipal government in this country.

(1) The English Borough. At an early date English towns, which had formerly been governed by town meetings, secured certain special privileges of local government from the crown by purchase or the pledge of an annual contribution of dues. The document which conferred these privileges was called the charter and was granted by the crown. It usually named certain townsmen as the governing body of the community, and these afterward came to appoint their successors, so that the English borough became a close or self-perpetuating corporation. It was not until the passage of the Municipal Corporations Act of 1835 that the government of English cities was placed in the hands of the people. The central feature of the English municipality has always been the council, and it is

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through the council that the powers of the corporation are exercised. It usually consists of the mayor, aldermen, and councilmen.

The English municipality has always been looked upon as an agent of Parliament. It has always been kept subservient to the central government. Parliament has been very tenacious of its authority, and has granted only limited powers to municipal corporations, and these powers have been strictly construed. The English city has the power to do only those things which are mentioned in its charter; it has only those powers which are expressly delegated to it by Parliament, which is the source of all authority. This has been the theory of the law of municipal corporations in England from the beginning.

(2) American Municipal Development. Early American charters were modeled after these old English charters and were at first granted by the governors as the English ones had been by the crown. They usually provided for a council composed of councilmen, aldermen, and mayor, and the mayor was usually elected by council and not by popular vote. The theory of the English law was accepted and the American municipal corporation today stands in the same relation to the state government that the English corporation does to Parliament. Later on charters came to be granted by acts of the colonial and state legislatures and the mayor to be elected by the people.[1]

The history of municipal organization in the United

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States has been one of constant experimentation with the frame-work of government. No system has yet been devised which the people call satisfactory. Almost any number of propositions and plans are being advocated at the present time for the solution of the problem, and little difficulty is encountered as a rule in getting them enacted into law in some state in the union. As it is, we have tried almost every scheme that can be thought of and are now little nearer a satisfactory solution of the difficult problem of municipal organization than we were at the beginning. When cities began to grow and municipal functions to expand, the English system did not work well. We then incorporated the system of checks and balances characteristic of the national government. The mayor was made independent of the council, and that body was composed of two houses. But no improvement resulted from the change. The era of democracy being ushered in, the plan of making all city officials elective was adopted. Department heads, inspectors, and municipal officials of all kinds were made elective officers, but only confusion and irresponsibility resulted from the trial. The innumerable boards, commissions, and departments were inefficient, extravagant, and non-coöperative, and it became evident to everyone that there was need of a central executive head to the city government. The powers of the mayor were therefore greatly increased. He was given wide powers in the appointment and removal of department heads, and

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was made the real directing force in the city government. Most cities are working under this plan at the present time. But it is little more satisfactory than the other plans have been. A new plan of organization which is meeting with favor is what is known as the commission form of government. This is an attempt to organize municipal government on the same basis as most business organizations, and to manage city affairs through a small board of directors. This plan has spread with great rapidity during the last five years. But already another plan is being offered as an improvement on the commission government plan. This is what is known as the city manager plan and centers around a general manager who is entrusted with the whole administrative side of the city government. These later plans restore the council in a modified form to much the same position that it occupied in the early development of city government in this country.

In all these forms of government there has always been a council and a chief executive officer usually called the mayor, and these two together have constituted the real governing body of the city. The numerous plans have been variations in the relations between these two departments and the methods of distributing the work of each. A study of municipal organization therefore centers around these various plans of constituting the legislative and administrative departments of city government.

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(3) The Executive Branch. The executive branch of the city government is headed by the mayor, who is the chief executive officer of the city. He is specially charged with the supervision of the general administrative side of the city government. In some cities his supervision is effectual, but in many it is purely nominal. In addition to the office of mayor there are generally a large number of departments, there being a department for each important branch of the municipal service. Sometimes these departments are administered by single commissioners and sometimes by boards composed of several members. Usually they are appointed by the mayor with or without the confirmation of the council, but frequently they are elected by the people, as in the case of boards of education, and even in some instances are selected by some state official. The following chapter is devoted to the administrative side of city government, and it is sufficient to say here that there is little uniformity in this branch of city government throughout the United States.

(4) The City Council. The legislative branch of city government in the United States is the city council. It is composed of members elected by the people for a term of one to four years, the usual term being two years, half of the members being elected each year. The number of members composing the council varies from eight or ten to one hundred. Boston under its new charter has nine. Philadelphia has one hundred

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and ninety. New York City has a council of seventy-nine members; Chicago, seventy; San Francisco, eighteen; and Milwaukee, forty-six. The tendency at the present time is to reduce the size of the council to fewer members than formerly. At one time it was common to have two chambers in the council after the plan of Congress and the state legislatures, but the great majority of cities now have single-chambered bodies. Philadelphia, Baltimore, St. Louis, and several other cities are still exceptions to the rule.

Generally, the members of the city council are elected by districts or wards, one or two members being elected from each ward. In cities having two houses, the members of the common council are usually elected by wards and the members of the upper house by the city as a whole. The disadvantages of the ward system, however, are gradually undermining that plan, and it is becoming more common to elect from the city at large than it formerly was. In San Francisco, for instance, all of the eighteen members of the council are elected at large, and the same is true of Boston. In all of the two hundred cities that have adopted the commission plan the members of the council are elected at large. In some cities a part of the members are elected from the city at large even where there is but one house composing the council. In Milwaukee, for instance, twelve members of the council are elected at large while the balance are elected by wards, and the same has been true in most of the larger cities of Ohio.

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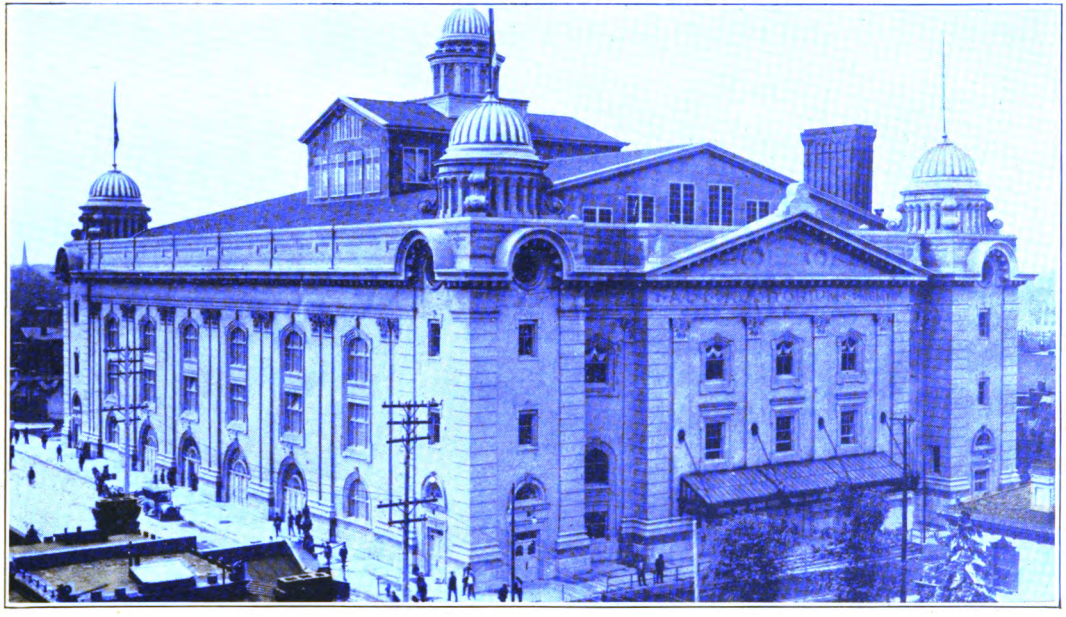

THE MUNICIPAL AUDITORIUM, DENVER, COLORADO
What one city has done for public recreation.

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It is felt that the interests of the city as a whole are better represented in this way.

Election at large usually results in the selection of a better class of councilmen than are elected by wards. Men of inferior character and ability are frequently elected under the ward system who could not be elected by the city as a whole. The principal objection to election at large is that it eliminates minority representation. In a city, however, there is usually less need of minority representation than in the state and nation, for the city deals largely with business rather than political issues. The ward system, on the other hand, emphasizes the interests of the ward rather than of the city[2] as a whole. The ward alderman feels himself under obligation to serve the interests of the ward first. He subordinates the interests of the city to the interests of his ward. Under the ward system, therefore, there is always interminable log-rolling between the aldermen to secure favors for their wards at the expense of the city. And the ward system also frequently results in unequal representation. Certain wards, particularly those where the minority are in the majority, are under-represented, while the wards of the majority are over-represented. This is the case in Chicago and other cities where well defined factions are found.

(5) Powers of the City Council. The council has only those powers which are conferred upon it by the city charter. These are usually enumerated and limited

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in number. It has the power to pass ordinances on all matters requiring regulation for purposes of public health, morals, and safety. It cannot as a rule create offices unless necessary to carry out some express power conferred by the charter. But the council is frequently entrusted with the election of certain officers, such as the city clerk, city attorney, and other important officials, and is generally given the power to confirm or reject the appointments of the mayor. The council is usually given the power to levy the taxes for the maintenance of the city government, and to incur indebtedness to a limited amount for public purposes. In many cities the council has supervisory powers over the administration, can order and conduct investigations, require reports of city officials, and pass regulations in regard to public accounts, and the management of municipal affairs. In general, the powers of the city council include such matters as the laying out, improving, and pavement of streets; the protection of public health; the regulation of the sale of liquor; the control of parks, public buildings, markets, bathing places, and places of amusement; the suppresion of vice and immorality; the collection and disposal of municipal waste; protection against fire; street lighting; waterworks; sewers; and in general the preservation of good order and safety in the community. Many councils have been granted many special powers, such as the building of tenement and lodging houses, the operation of stone quarries, and in some cases the oper-

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ation of street railways and bus lines. One of the most important powers granted to cities has been the power to grant franchises to public service companies —street railways, telephone, telegraph, and gas companies, and other corporations using the streets and serving the public generally. In some states, however, this power is being taken away from the city council, or being subjected to more or less close state supervision, as in the states of New York, Wisconsin, and others having state public service commissions.

(6) Council Procedure. City councils, like most representative bodies, are organized into committees for convenience and expedition in carrying on their work. These committees are usually appointed by the mayor or presiding officer of the council and as a rule consist of from three to seven members, the first member named on each committee being the chairman. In most large cities there are from fifteen to twenty-five of these regular or "standing" committees, as they are called, but in smaller cities the number does not usually exceed twelve or fifteen. There are as a rule committees on finance, claims, judiciary, licenses, streets and sewers, police and fire, lighting, health, ordinances, and printing, and on parks and public property, city markets, water, and other public works, depending on the number of industries owned or operated by the city.

All matters coming before the council are usually referred to the proper committee for investigation and

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recommendation, and the reports of these committees always have great weight with the council. Unless strong evidence is produced in opposition to the committee's report, it is usually adopted by the council, since the individual councilmen are not generally sufficiently informed upon the subject-matter of the report to care to over-rule the recommendation of the committee after it has made a special investigation of the subject. It is impossible for the average alderman to inform himself individually on all matters coming before the council for consideration.[3] He informs himself on those matters referred to his committee, and accepts the recommendations of the other committees on all other matters.

Thus the real work of the council is done by the committees. They meet and consider all matters referred to them. They listen to the arguments advanced for and against each proposition, hear complaints, investigate the merits of each case, and then make their report to the council. Of course the council may or may not accept the report; it may, in case of disagreement, re-refer the report to the committee for further consideration. While it occasionally happens that the report of a commitee is rejected by the council, one who secures its recommendation has the odds in his favor. The council may, however, and frequently does, amend committee reports before accepting them.

Councils have the power to adopt their own rules of procedure, but these are much the same in all cities.

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The formal actions of the council are taken by motion, resolution, or ordinance. The laws enacted by the council take the form of ordinances and within the city have all the force of state statutes.[4] The less formal acts are embodied in resolutions, while the ordinary acts of the council in the regular course of its procedure are always in the form of motions. Every motion must have a second and is ordinarily carried by a majority vote. Resolutions must be reduced to writing before being presented to the council, and the presiding officer may also require the same in regard to motions, although as a rule they are made orally. Resolutions and ordinances cannot as a rule be passed the same day on which they are introduced, although this rule is frequently suspended with reference to resolutions in cases of emergency. A resolution is usually introduced and referred to a committee to be reported back with its recommendation at the next meeting of the council. An ordinance as a rule must be read three times before passage, once throughout and twice by title. An ordinance is introduced, read throughout once and once by title, and referred to the committee on ordinances. The committee meets, listens to any citizen who wishes to appear before the committee for or against it, makes its recommendation, and reports it back again at a subsequent meeting of the council. The report of the committee is then either accepted or rejected by the council, and if accepted, the ordinance is either read a third time and placed on its passage,

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or ordered printed and held over till the next meeting of the council and then read the third time and passed. As a rule a majority vote is sufficient for passage, but the ayes and noes are usually required. Upon being signed by the mayor, or the president of the council as the case may be, and publication in the official paper of the city it becomes a law.

In many cities the mayor is given the veto power over actions of the council. In such cities ordinances must be presented to the mayor for his approval. If vetoed by the mayor, the measure must be again passed by the council, usually by a two-thirds vote, before it can become a law. Ordinarily the votes of the council are taken viva voce unless otherwise required by the council, as in the case of resolutions appropriating money, when the roll-call is required.

Thus, if a citizen wishes to have a street light placed on the corner near his residence, or to secure permission to place an electric sign in front of his store, his procedure would be as follows: He would present his case to the alderman from his ward, or to any alderman if there were no wards, and get him to introduce a resolution ordering the light or giving permission to hang the sign as the case might be. The resolution would then be referred to the appropriate committee for investigation and report. At its next meeting the committee would listen to the citizen's reasons for the request, perhaps visit the location, and also hear any arguments in opposition to the granting of the request.

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After this the committee would decide and make its report, which would be presented to the council at its next meeting, and then either accepted or rejected by the council. Opportunity is frequently given to citizens to present their case before the council before it votes on the acceptance of the commitee's report. If the resolution dealt with an emergency, the rules might be suspended upon its introduction and the resolution immediately placed upon its passage without reference to a committee.[5]

(7) Commission Government. Another form of municipal organization is the commission form.[6] This plan was devised in Galveston, Texas, following the great flood of 1900.[7] The old city government was completely demoralized and the municipality nearly ruined by the catastrophe. The business men of the city took matters into their own hands and prepared a plan of city government based on business practices. This plan afterward adopted by the city became the so-called Galveston plan. It met with immediate success in Galveston and soon spread to other cities of Texas, and finally to Des Moines and other western cities. The plan is now in operation in over two hundred cities throughout the country.

Under the commission plan the entire government of the city is placed in the hands of a small board or commission, usually composed of five men. These five councilmen, or commissioners as they are sometimes called, are elected by the city at large and not by wards,

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and exercise both the legislative and administrative powers of the city government. Usually they divide the administration into departments, a commissioner assuming charge of each department.[8] It then becomes the duty of that commissioner to look especially after the affairs of that department. He is its superintendent and is responsible to the other commissioners and to the people for its efficient administration. The commissioners together form the legislative body, or board of directors of the city government. They pass all ordinances, appoint the other city officials, levy the taxes, and decide the general policy of the administration. As a board, they perform all the functions of the mayor and common council under the old system. Each commissioner, therefore, serves in two capacities; he is the superintendent or manager of a department of the administration and a member of the governing board of the city. The commission as a whole is responsible for the entire administration of the city government. It usually has the power to remove any official whose service is not satisfactory to it. The commissioners are usually elected for two or four years, generally receive very good salaries, and as a rule devote their entire time to the duties of their office.

The chief advantages of the system are its simplicity, its efficiency, and its fixing of responsibility. It permits the organization of the city administration on an industrial basis, and makes possible the application of the same business methods and effective man-

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agement so notable in the administration of great corporate enterprises. It concentrates power and fixes responsibility. It promotes promptness, efficiency, and honesty, and offers opportunity to the industrious, and attracts public officials of a higher caliber. It is also more in harmony with the functions which the modern city has to perform and better meets the conditions under which city government must now be administered than does the old common council system.

(8) The City Manager Plan. Certain objections have been raised to the commission plan, however, and another plan has been suggested to remedy its defects. The commission plan combines the tax levying and the tax spending powers, and many Americans think this unwise. Again, the plan does not completely fix responsibility for it divides it among five men, any three of whom can control the administration, and out-vote any one of the commissioners in the administration of his department. Under the commission plan, too, there is no single head to the administration, no one man whom the people can hold responsible for the city government. These objections have led to a modification of the plan, namely, the city manager plan. Under this plan all legislative powers are conferred upon a small council of five to nine members, and the administrative powers to a single city manager. The members of the council are elected at large for periods of two to four years, and constitute the policy deter-

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mining side of the city government. They pass the ordinances, levy the taxes, and determine the policy of the administration. They also choose the city manager. It is the duty of the city manager to carry out the policy of the council, and to administer the affairs of the city under their supervision. He has the power to appoint all city officials and employes to assist him in the work, and is responsible for the efficiency of the entire administration of the city government. The city manager administers the affairs of the city, therefore, under the direction of the city council, in much the same way as the president of a bank administers the business of the bank under the direction of the board of directors. Several cities provide that in selecting the city manager the council must advertise for the best man.

The advantages of the city manager plan are that it preserves the separation between the legislative and executive functions of government, while at the same time securing efficiency in organization. It definitely fixes the responsibility for the administrative side of the government on one man, the city manager. The plan would, if generally adopted, lead to the training of a professional class of expert city administrators who could make a life work of city government, and be promoted from smaller to larger cities as they became more efficient. The plan has been adopted in various forms, in Staunton, Va., Sumter, S. C., and several

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other smaller cities in the country, and general bills on the subject are at the present time pending in the legislatures of several states.[9]

There is as yet, therefore, no fixedness about municipal organization in the United States. We are still in the experimental stage. It appears to the writer that the experiment in the direction of the city manager plan is perhaps a step toward the ultimate solution of the problem. It satisfies the demands of popular control, yet offers the opportunity for expert service by professional administrators which has made German and English municipal government models of efficiency and economy.

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SUPPLEMENTARY READING

CHAPTER II

Municipal Organization

[1] **Municipal Development.**—The municipal organization which first obtained in this country was, like most of our governmental institutions, an importation from England rather than an indigenous growth. It consisted in a municipal council in which, or in whose members, were concentrated almost all functions of municipal government. The change in this organization which was at first proposed and adopted was the incorporation into it of the checks and balances which characterized the national government, and whose efficiency in promoting and assuring good government it was, at the time, deemed political heresy to doubt. The mayor, who had been a member of the council, became very generally independent thereof. The judicial functions of the members of the council were very generally assigned in the larger cities to special municipal judges no longer members of the council. Finally the council was, after national models, very generally organized as a bicameral body.

This change did not, however, work all the good that was expected of it, and in their impatience at seeing their property still wasted, and their cities still poorly administered, the people applied a second time to municipal misgovernment what seemed to them an unfailing and infallible panacea. This time it was democracy. The period from 1830 to 1850 was marked the world over by the growth of an overweening confidence in the wisdom, the greatness, and the goodness of the people. All evils in government were to be done away with by bringing the people as near as might be to the seats of governmental power. In the United States, in the country at large as well as in the cities,

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this belief resulted in a widening of the suffrage until it became universal manhood suffrage, and in the grant to the people of the power to elect almost all officers of government. In the cities particularly, the important change in organization which resulted was the election by universal manhood suffrage not only of the mayor and council, but also of the heads of the various executive departments which had originally been under the control of committees of the council, as they are still in England, but which, after the first reform of American municipal institutions, had sprung into an independent existence.

Again were the people doomed to disappointment, and, if we may judge of municipal conditions by contemporary criticism and literature, their last state was worse than their first. The extremely loose and disconnected organization adopted by the democratic movement of the first half of the century made necessary the formation of "Rings" and "Deals" if municipal government was to go on at all. What made matters worse was the profound disappointment and distrust of reform and change, the loss of confidence in the worth or wisdom of the people, which was extremely unsettling in a naturally democratic community. This lost, no one knew which way to turn. But something had to be done, and with that practical common sense which has ever been the saving of this community, although it has always prided itself on its consistent adherence to certain political theories, it was determined to turn the back on all the allurements and temptations of democracy, and infuse into our municipal government more of that monarchical principle which it had been the custom to deride, but a modicum of which is necessary to the existence of all government. This was affected by increasing very largely the powers of the mayor, who has been placed at the head of the municipal government with a plenitude of power which is unexampled in the aristocratic society and monarchical governments of Europe. In all the larger cities the later charters give the mayor almost absolute power of appointing most of the important heads of departments, and in many cases add thereto the power of removal; and the tendency seems everywhere to magnify the importance of his position.

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This is the stage of municipal development in which we find ourselves at present, and it is regarded by most municipal reformers as quite unorthodox to doubt the final efficacy for good government of this particular form of municipal organization.—*F. J. Goodnow, "Municipal Home Rule," pp. 2-5.*

[2] **The Ward System.**—Much has been said and written concerning the relative merits of the ward and general-ticket system of choosing municipal councillors, and it is often alleged that the ward system has been responsible in no small degree for the mediocrity of the men usually selected. Petty districts choose petty men—so the saying runs. The ward councillor represents his own ward, and that alone. He forgets that the city is more than the sum of its wards, and that the public opinion of the city may be different from the totality of neighborhood clamors. Ward divisions are at best ephemeral; unlike the French arrondissement, the American ward has rarely any traditions and as a unit of area exacts no spontaneous loyalty from the people who live in it. What passes for ward loyalty is, more commonly than not, local prejudice fostered by politicians to serve their own personal ends. Moreover, the concentration of single ethnic elements in particular sections of the city makes it practically certain that, under the ward system, some members of the council will owe their election to nothing but their proficiency in appealing to racial or religious or social narrowness. The ward system likewise affords a standing incentive to that most vicious of all American contributions to the science of practical politics, the gerrymander; it makes possible the control of a majority in the council by a minority of the city's voters; and, unless redistricting is resorted to frequently, it fosters gross inequalities in representation. The term "ward" has accordingly come into disrepute in the terminology of American government, a somewhat curious fact, by the way, since in England, where councillors are and always have been chosen from wards, no such odium has been developed. Its presence here is doubtless explained by the fact that in America ward representation, ward politics, and ward organization have come to be associated in the public mind with bossism, trickery, and almost everything else

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that is politically demoralizing. A feeling so deeply lodged can scarcely be without some substantial foundation.

One thing, however, the ward system has in its favor; it does secure what many voters seem to regard as the only real representation of their special interests in the city government, and it does insure a certain amount of geographical and political variety in the make-up of the municipal council. It is the failure of the general ticket system to afford adequate guarantees on these points that have hindered its more extensive adoption. Under a system of election at large it is entirely possible for all the councillors to come from one section of the city, or at any rate from a few of the many sections; and it is not only possible, but probable, that if the municipal ballot bears party designations, as it usually does, they will all come from one political party. When nominations are made by political conventions, it can usually be arranged to give the various geographical sections of the city due recognition on the slate of candidates; but when nominations are made by direct primaries or by petition this cannot very easily be done. In such cases some sections are liable to be left without representation among the candidates whose names go on the ballot; and since, when a political party stands loyally by its whole slate of candidates, it will elect them all, the minority party is wholly unrepresented in the council. In Boston, some years ago, when the thirteen members of the board of aldermen were elected at large, one political party regularly managed to capture the whole quota, until the legislature intervened and required by statute that voters should mark their ballots for not more than seven candidates, although thirteen were to be chosen. Thenceforth the majority party in the city was assured of seven aldermen, while the minority party secured the remaining six; but the board was always so closely balanced politically that deadlocks were frequent, and the city's business was greatly obstructed in consequence.

These objections to the system of electing councillors at large merely beg the question as to whether either geographical or political representation is a thing to be desired. Are not different sections of the city, however diverse they may be in their

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racial or social or economic features, entirely at one in their common interest concerning the city as a whole? Can any policy which is to the advantage of the whole body of citizens be of permanent disadvantage to citizens of any one race or creed or neighborhood? The plea for ward representation rests upon the affirmative of this proposition. As for the service which the ward system is reputed to render in assuring due representation to a minority political party, many persons are disposed to deny that it is a service at all, since it rests upon the premise that the regular political parties have a necessary place in municipal affairs and hence should be officially recognized and their interests duly regarded in the composition of the city government. Such doctrines are supported neither by reason nor by experience, and they are quite out of harmony with the present-day drift of public sentiment. Those American cities which have reorganized their administrative arrangements during the last ten years have, without exception, striven to lessen the recognition given to political parties. Important steps to this end have been the reduction of the council in size and the removal of party designations from the municipal ballot. With the adoption of these features the chief reasons for the ward system of election disappear.—*W. B. Munro, "The Government of American Cities," pp. 191-194.*

[3] **The American Councilman.**—As a rule any qualified voter may become a candidate for election to either branch of a city council, but in some cities an additional residence requirement is imposed. In a few places it is stipulated that aldermen and councilmen shall be at least twenty-five years of age; and in at least one city, Detroit, there is an elementary educational qualification which is not exacted from voters, namely, that of being able "to read and write the English language intelligibly." Many city charters also contain the stipulation that a member of the council shall not hold any other public office, that he shall not be pecuniarily interested in any contract to which the city is a party, and that no one who has ever been convicted of any violation of a public trust shall be elected to the board. In no city is a special property qualification exacted, nor is any pre-

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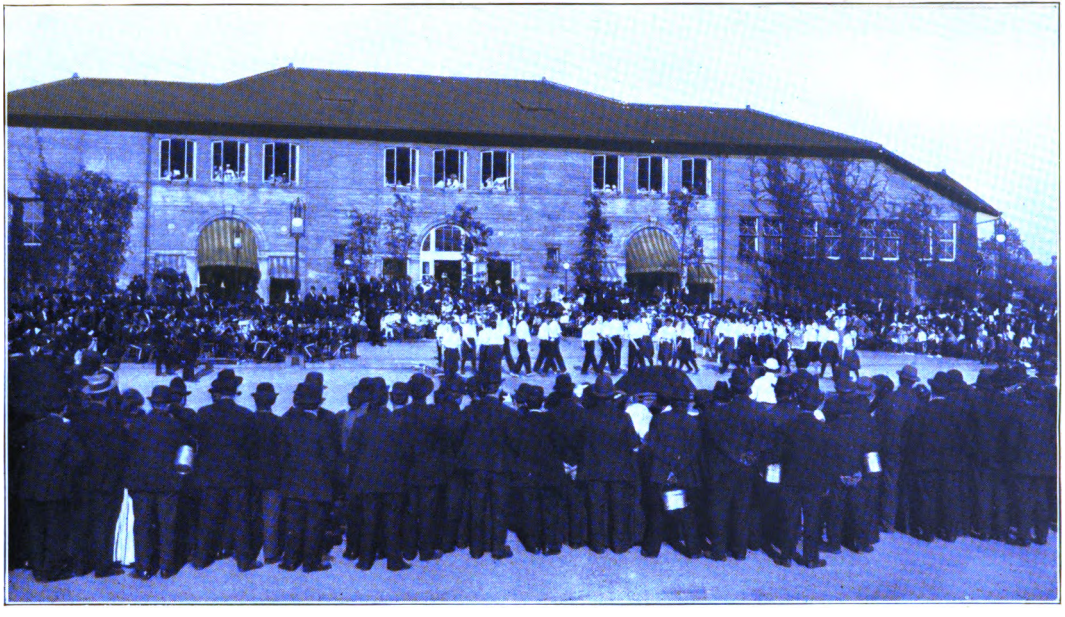

FIELD HOUSE, DAVIS SQUARE, CHICAGO

Note group of laboring men stopping to witness the Annual Play Festival. A fine building for public recreation.

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vious experience in public office required or even expected. The municipal council represents the lowest rung in the ladder of American public life. It is where many men begin what they hope will prove a political career; but not many of them manage to get much higher. This is because the municipal council, especially in the larger cities, does not attract men of real ability or business capacity, a fact which has been so often commented upon that it has ceased to excite any surprise. It does not get even fair material. Very rarely is it true nowadays that any considerable percentage of the councillors are owners of property; indeed, it would probably be found, in most large cities, that at least three-fourths of them contribute nothing to the city treasury but an annual poll tax. In Boston, just before the common council of seventy-five members was abolished, it was said that the total sum which they paid in taxes did not equal the annual cost of a single city laborer. Only a few of them owned any property at all; the rest were assessed for poll-taxes, and even these small sums could in some cases be collected only by deducting them from the monthly stipends of the councilmen. In many American cities about the only practical requirements for election to the council are that the candidate shall have given proof of loyalty to his political party; that he shall have no substantial business cares, for he must devote a large part of his time not to the actual duties of his office, but to his own rôle in the continuous vaudeville of ward politics, that he be glib of tongue, an active canvasser for votes, not vindictive, not ungrateful, and not overscrupulous.—*Munro, op. cit., pp. 188-9.*

[4] **Municipal Ordinances.**—The usual medium through which the governing authorities of the city (i. e., the mayor and city council, or, in cities that have adopted the system of government by commission, the commission) put the powers of the municipal corporation into activity is the ordinance. Within the scope of this term are included all "local laws of a municipal corporation, duly enacted by the proper authorities, prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality." Powers given to a city by its charter or by other statutes are usually coupled with a provision

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that the city council or other legislative organ of city government shall have authority to carry these powers into operation by appropriate ordinances. It is by ordinances that most cities have organized their various administrative departments. One ordinance deals with the police department, another with streets and street traffic, another with fire protection, another with building regulations, and so on. Each prescribes in detail not only the way in which the department shall be organized, its personnel, and the relation of the various officers, but, even to minute particulars, the manner in which its work must be carried on. In some cases the charter or other statutes give to certain administrative bodies, such as the board of health or the tenement-house commission, or even to a single official, the power to make rules and regulations within their respective fields of jurisdiction. These are termed "regulations" not ordinances; but in general they have all the force of ordinances, and they are subject to the same general restrictions.

In the exercise of their powers by ordinance (or by regulations) the governing bodies of the city are subject to several important limitations. Some of these are of a general nature, merely representing the application to municipal law-making of those principles which apply to state legislation. An ordinance must not, for example, be inconsistent with the provisions of the charter or the statute under which it is passed. When a state statute and a municipal ordinance are in conflict, the latter is of course invalid. To be valid, likewise, a municipal ordinance must be passed with due respect to the prescribed formalities. An ordinance is more than a mere resolution of the council; when there are standing requirements that it must be introduced in a certain way, be submitted to three readings, and be approved by the mayor before going into effect, these formalities must be observed. But in addition to these general rules there are some of a more special character.—*W. B. Munro, op. cit., p. 84.*

[5] **The Place of the City Council.**—The principle of separation of powers, as applied to local government, has come to mean that the city executive shall have most of the real authority, and that, under the name of legislative jurisdiction, the council

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may have whatever is left. The whole trend has been in the direction of reducing the council to a body which makes minor ordinances, passes the appropriations with no power to increase them in amount, authorizes borrowing when necessary, and does little more. The only marked reaction against this tendency is to be found in those cities which, by adopting the commission form of government, have cast overboard the traditional principle of division of powers. Save in so far as the city council may profit by the abandonment of this principle, there are no signs that it will, in its orthodox form, ever regain its former position of prestige and influence.—*Munro, op. cit., p. 205.*

[6] **Origin of Commission Government.**—Despite the popular impression that the commission form of local administration is a novelty in American government, it is in essential principle by no means new in the United States. In fact, it is as near a return as present day conditions will permit to the old colonial system of town and city government, where municipal powers were concentrated in a local elective assembly, which not only determined the policy of the municipality, but appointed all administrative officers, including the mayor, who was given no special executive functions, no veto power, and no power of appointment, but was made merely the presiding officer of the city council, the same as under the present commission plan.

Nor is the commission plan in any very important respect different from the New England system of town government. The New England selectmen are nothing more nor less than a commission of three, elected at large, and operating by majority vote the same as at Galveston and Des Moines. The administrative and legislative functions are combined, and the selectmen in their jurisdiction represent a complete fusion of local power and responsibility. In the same way our county governments have long been administered by elective commissions or boards of supervisors, in which the executive and legislative functions are combined. Throughout the South and even to some extent throughout the North, this board has been known as the "Board of County Commissioners," and has usually consisted of three or five members elected at large. Our national capital has been

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governed by a commission since 1873, the commissioners in this instance being appointed by the President instead of being elected. Memphis, Tenn., after the yellow fever scourge of 1878-9 was administered by a similar commission appointed by the governor of the state. These last two instances are not examples of what we now understand as commission government proper, for an essential principle now recognized in the commission plan is the election of the commissioners at large, but they served as hints for adaptation to the present system and, as a matter of fact, probably played a larger part in shaping the Galveston charter than any of the precedents yet mentioned. Copies of both the Memphis and the Washington charters were in the hands of the framers of the Galveston plan at the time that plan was drafted.

In this connection should also be mentioned the growing tendency in many cities to deprive the city council of many of its legislative powers, especially its financial powers, and to transfer these powers to administrative boards and officers. Formerly it was thought that the determination of the financial policy by the representative assembly was one of the fundamental principles of popular government — "no taxation without representation"; but so deeply rooted has become the popular distrust of local legislative bodies, that even the control of finances — the most important of the early legislative functions — has been taken out of the hands of the city council in many cities and given to boards of estimate and apportionment. Indeed, in most cities the budget is now framed by the chief executive officials of the city. Thus the making of the budget has come to be an administrative matter.

This is particularly true of the large cities. In Greater New York the framing of the budget is intrusted to a board of estimate and apportionment, made up of the mayor, the comptroller, the president of the board of aldermen, and the presidents of the five boroughs, into which the city is divided. The budget, as framed by this board, is submitted to the municipal assembly, which has the privilege of reducing the various items of appropriation, but not of increasing them. All reductions made by the

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municipal assembly must be submitted to the mayor for approval, and if vetoed by him must be repassed by a five-sixths majority of the assembly. If the municipal assembly for any reason fails to act on the budget, as prepared by the board of estimate and apportionment, within twenty days, it is considered to have been passed. Baltimore, Cleveland, and other cities have adopted similar plans of fixing the responsibility for the financial policy of the city on a few administrative officers with large powers.

This is, of course, an application of the commission government principle to the administration of the city's finances. As a precedent or tendency toward commission government, it is especially significant because of the importance which the administration of the financial department of a city bears to the whole administration of the city government. In 1863 Sacramento was given a charter which conformed very closely to what afterward became the Galveston plan. The government of the city was placed in the hands of a governing board called the "Board of Trustees," composed of three members elected at large for terms of two years.

In 1870 New Orleans was given a charter which outlined almost exactly the later Galveston plan, even in many of its details. This charter provided for a "Board of Administrators," composed of a mayor and seven (instead of four as at Galveston) administrators, which was intrusted with the government of the city.—*F. H. MacGregor, "City Government by Commission," pp. 19-22.*

[7] **The Galveston Plan.**—The commission government of Galveston was inaugurated under unusual circumstances; it was an emergency measure. In 1900 the city was visited by a great storm and tidal wave which destroyed a third of the property and drowned over a sixth of the entire population of the city in a single night. Public buildings were wrecked, paved streets washed away, the municipality ruined. Nothing was left but wreckage and debts, and yet on top of this, without money and without credit, it was necessary to create more debt. Millions had to be spent in public improvements. Worst of all there was no money. Tax-payers could not pay their taxes. Although in

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1899 the city had been the fourth wealthiest city per capita in the United States, its municipal bonds immediately fell to sixty. Thousands of people were hurrying away and there were grave doubts as to whether or not the city could ever be preserved. To retain its population, confidence had to be restored and the city assured of protection against a repetition of the disaster.

Under the strain the old municipal organization broke down. For years the annual expenditures had exceeded the receipts. Each year the deficit had been made up by the issue of bonds, until nearly three millions of debt had been accumulated in this way alone. The enormous demands upon the civic treasury presented by this new catastrophe brought matters to such a crisis that the Texas legislature was called upon by the business men of Galveston to take heroic measures to meet this financial problem. As stated by the citizens' committee, it was a case of civic life or death, and not only of the city alone, but of the citizens themselves, for the fortune of the individual was bound to that of the city. The city was acknowledged bankrupt; it had defaulted for some time in the payment of interest on its bonds. Its finances having been conducted by the old administration on the basis of exploitation rather than of public interest, the future, thus heavily discounted, proved unequal to the drafts made upon it. To the governor's inquiry as to what was available for immediate relief, the answer was that so far from having a surplus, the city's floating indebtedness was still on the increase. So utterly unsound was the city's condition, and so powerless the locally constituted government to deal with it, that state aid was opposed, both by the governor and in the legislature, unless the form of government were changed and the administration placed immediately under the control of the state.

The old municipal framework of mayor and twelve aldermen was abolished root and branch and by a new charter granted in 1901, the administration of the city's affairs was intrusted to a commission of five members, three appointed by the governor and two elected by the citizens of Galveston at large. The original draft of the charter, which was presented to the legis-

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lature by the citizens' committee, provided that all members of the commission should be appointed by the governor, but this plan was so strongly opposed by the local politicians that it was finally amended in accordance with a compromise, making three members appointed by the governor and the other two elected at large.—*MacGregor, op. cit., p. 35.*

[8] **Essential Features of Commission Government.**—The features essential to the commission plan are, roughly, four in number, and as follows:

First: There must be a complete centralization and concentration of all power and responsibility in a small council, or commission, usually of five members, thus doing away with the separation of powers into legislative, executive, and judicial, and abandoning the ordinary checks and balances thrown around our federal system and at present around our common council system, to protect the people against themselves. This is the most essential feature of the entire plan. The fundamental principle of commission government is that official responsibility shall be definitely fixed, and, furthermore, that it shall be fixed on just those officials elected by the people. The council or commission is directly charged with, and is responsible for, the entire administration of the city's affairs — it is the city government. It is the theory of the commission plan that this responsibility to the electorate shall be the only check placed upon the actions of the commission, and that consistent with this responsibility the council shall have the power to administer the affairs of the city in such a way as best subserves the public interest.

This does not preclude the establishment of certain administrative boards or committees — library boards, park boards, boards of health, etc. — but such boards must be responsible to the city council. Their members must be appointed by, and removable by, and all their actions subject to the approval of, the city council. It is evident that this must be so if the council is to be held responsible to the electorate for their actions and the efficiency of their departments.

Second: The members of this council or commission must be

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elected at large and not by wards, and, therefore, represent the city as a whole, not subdivisions of it. The commission plan does not rest upon district representation.

Third: The members of this council or commission must be the only elective officers of the city, with the possible exception of the auditor and in some cities of the school board, and must have the power of appointing all subordinate administrative officials.

Fourth: Not only must this council or commission have the power of appointing all subordinate administrative city officials, but it must have the power of removing them at will, in order to keep them directly responsible to the commission, and the commission directly responsible to the people for the administration of the city's affairs.

These four principles are absolutely essential to the commission form of government pure and simple. As one or more of them is lacking, just to that extent is the commission principle violated. So if the city treasurer is elected directly by the people, or the city attorney, or city engineer, it is impossible to have a pure commission form of city government, because that division of responsibility militates against the principle lying at the very base of the commission government idea. Commission government is predicated upon the idea that the commission shall be responsible. If subordinate administrative officials are elected, they are responsible not to the commission, but to the people, and responsibility for the city administration becomes at once divided. The city council or commission cannot be held responsible for the acts or official conduct of officers over whom it has no control and with whose selection it has nothing to do.—*MacGregor, op. cit., p. 25.*

[9] **Wisconsin City Manager Plan.**—The city manager shall be elected purely on merit. In electing the city manager the council shall give due regard to training, experience, executive, and administrative ability and efficiency, and general qualifications and fitness for performing the duties of the office, and no person shall be eligible to the office of city manager who is not, by training, experience, ability, and efficiency, well qualified and

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generally fit to perform the duties of such office. No weight or consideration shall be given by the council to nationality, political, or religious affiliations, or to any other considerations except merit and direct qualifications for the office.

Residence in the city or state shall not be qualification for the office of city manager.

At least thirty days before electing or engaging a city manager, the council shall advertise for applicants in two or more daily newspapers of state-wide circulation, in two or more daily newspapers of interstate circulation, and in such other newspapers, magazines, advertising agencies, employment bureaus, and other advertising mediums, and during such length of time as it shall deem necessary to secure applications from the available persons best qualified to fill such office.

The applications, records, recommendations, and qualifications, of all applicants for the office of city manager shall be immediately placed and hereafter kept on file, and shall be matters of public record and open to the examination and inspection of the public at all reasonable times.—*Extract from bill before Wisconsin Legislature.*

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CHAPTER III

MUNICIPAL ADMINISTRATION

UNTIL recent years very little attention has been paid to the administrative side of city government in the United States. When we needed a system, we imported one "ready made" from England, and when that did not work, we applied the federal system — a system which fitted the city's needs as a man's coat usually fits a boy. Of course it did not work well. With the customary American inventive genius we set about to remedy it. We went back to the beginning and began over again; we increased or diminished the size or powers of the council, empowered or impoverished the mayor, or divested both and transferred their powers to boards or commissions. And this has been the procedure in every case. When things have gone wrong, we have gone back and amended the charter in an attempt to devise a perfect machine, one that will run itself. The same troubles arose in England and on the continent, but instead of going back and tampering with the charter, of changing the constitutional framework of the government, they modified the machinery of administration, in an effort to adjust the system to the conditions under which it must operate. As a result, there has grown up in Europe a great ad-

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ministrative system of expert and professional city officials that has made a success in Europe of a system that has proved a failure in America.

There is, therefore, as yet no coördinated and uniform system of administration in American cities. On the other hand, the administration of the city government is divided among a large number of separate and more or less independent administrative departments, each having charge of certain functions, but frequently over-lapping each other in jurisdiction. These departments vary in different cities, and frequently the work of departments bearing the same name is entirely different in one city than it is in another. The only way to acquire an accurate knowledge of the administration of any particular city administration is to take its charter and ordinances and study its plan of organization individually; no study of city administration in general will be sufficient. One author has adopted this plan. Delos F. Wilcox, in his new volume "Great Cities in America," has selected certain cities and described their government in detail. But although the details of administrative organization differ in the various cities, the general plan of municipal administration is much the same in all American cities.

(1) The Mayor. At the head of the municipal administrative system is the mayor. In all American cities the mayor is elected by the people. This is in striking contrast to the practice in Europe where the mayor is usually elected by the council or appointed

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by the central government. Formerly the mayor was elected by the council in America, but following the wave of democracy which swept the country early in the nineteenth century, the office came to be filled by popular vote in order to enforce popular responsibility. The term now ranges from one to five years, the tendency being toward the longer rather than the shorter period. Mayors under the commission form of government in Wisconsin serve for six years, which is the longest term found in American cities. In Europe where city experience has been of longer duration, the term for mayor is much longer. The usual term in Germany is twelve years, and in many cities, such as Dresden, Munich, and Leipzig, the mayor is appointed for life. As a general rule, however, American mayors are re-elected for a second or third term, which has the effect of lengthening the tenure. Mayors are paid salaries, usually the highest of municipal officials. The mayor of New York receives $15,000 per year; the mayor of Philadelphia receives $12,000. Salaries in other cities run from $1,000 in the city of 25,000, to $5,000 or $6,000 in the city of 400,000, according to population.

The duties of the mayor are numerous and are not confined merely to the field of administration. We have already mentioned his part in legislation. In some cities he is the presiding officer of the city council and as such has the deciding vote in case of a tie. In most cities he is given the right to submit messages[1]

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to the council on the conditions and needs of the city and to recommend measures for its consideration in the same way that the president does to congress, and that governors do to the state legislatures. In fact, the general policy of the administration may be largely determined by the mayor. He is almost universally given the power to veto ordinances and resolutions,[2] when he does not approve them, and these then require a two-thirds or three-fourths vote of the council to be enacted over his veto. Thus the mayor has not only a directing influence on municipal legislation, but a very effective negative upon the acts of the council. He is also generally required to sign contracts, warrants on the city treasury, and licenses and permits. He is the representative officer of the city. It is his duty to welcome the city's guests, and to represent the city on state occasions. The mayor is charged with the duty of enforcing all ordinances of the city and laws of the state, and with the maintenance of peace and order in the city. In cases of riot and disturbances he may even call on the governor for the militia. He is frequently given the power to grant pardons for the violation of city ordinances, and in some cities is the judge of the municipal court. In general he is given supervision over other departments of the administration, may require reports, and in some cases conduct investigations into the efficiency and conduct of their affairs. The mayor usually has considerable power in supervising the preparation of the municipal budget.

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One of the most important powers of the mayor, however, is his power of appointment. In American cities he is usually given the power of nominating and frequently of appointing most of the administration officials of the city. An exception is found in the financial officials, treasurer and comptroller, who are still as a rule elected by the people. Other officials are usually named by the mayor and confirmed by the council. This practice of appointing administrative officers has not been entirely satisfactory. The mayor has often shielded himself behind the approval of the council to make partisan appointments, while the council has frequently utilized its power of confirmation to force the mayor to make such nominations. The tendency now is strongly toward the practice of giving the mayor the absolute power of appointment as well as the power of removal, thus placing the responsibility for the character and efficiency of appointive officials at his door. In fact the present day tendency is to greatly increase the importance and powers of the mayor, and to center in him responsibility for the entire city administration. This will undoubtedly lead to an improvement in the administrative machinery of city government. The difficulty so far has been that the mayor has not yet been given sufficient power of appointment and removal to enforce this responsibility and to establish an efficient administrative machine.

(2) Administrative Departments. In addition to the mayor there are in every city a large number of

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other administrative departments. As already stated there is no uniform organization or division of functions among these departments in the various cities, but each city has its own plan. New York, for instance, has eighteen main departments in addition to nearly a score of administrative officials who fall within no particular department. Chicago has nine departments — finance, law, public works, health, fire, police, elections, education, and libraries — and Cleveland has ten — law, public works, police, fire, accounts, charities, and corrections, parks, elections, education, and libraries. Detroit has twenty-six boards and officials, and Boston under its old charter had thirty-three. The city of Madison, Wisconsin, a city of thirty thousand population, has nineteen separate departments not including several subordinate administrative officials only partly subject to these departments. Cities under commission government usually divide the administration into as many departments as there are commissioners, combining various functions in one department where necessary. As a general rule, however, there are departments of finance, police and fire, public works, health, and education in all cities, and as many other departments as the needs of the particular city require. Frequently general departments are divided into a large number of divisions, as in the case of public works where divisions of street cleaning, sewers, water, light, paving, and other divisions are found.

These departments are generally organized on one

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of two general principles: each is under the control of either a board or a single commissioner. Both types have their advantages and disadvantages. The board type is best adapted to the administration of departments requiring deliberation, a continuity of policy, the representation of different interests, and where expert officials are employed. It is commonly found in the department of education, libraries, charities and corrections, and other departments where public opinion is important. The single commissioner type, on the other hand, is best adapted to those departments where promptness, unity of action, and a definite fixing of responsibility is important, as in the police and fire departments, the legal, engineering, and other technical departments. Experience seems to favor the latter system and the board system is gradually giving way to the commissioner plan. It is best adapted to secure efficiency and economy in those branches of government which are closest akin to business administration.

(3) Finance Administration. One of the most important departments of city administration from the taxpayers point of view is the department of finance. In some cities there is a separate department by this name. But even where these departments exist, they do not include all branches of finance administration. The administration and control of the city's finances comprise three separate functions, the preparation and passage of the budget, the assessment and collection of

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NEW POLICE HEADQUARTERS, NEW YORK CITY

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taxes, and the account and audit of financial transactions. Frequently these functions are performed by separate departments, or departments whose principal work lies in other directions.[3]

(4) The Budget. The budget is usually prepared under one of two plans, the council plan or the separate board plan. The council plan is the oldest and perhaps the most common plan. Under this plan all the various departments of the city government make out estimates of their expenditures for the coming year and present them to the city council. These estimates are considered by the appropriation or finance committee of the council, and an appropriation bill is prepared. The department heads usually ask for more money than they expect to get, anticipating that the council will cut down their estimates in an effort to reduce taxes, and this the council usually does. The appropriation bill usually differs widely from the estimates submitted by the different departments, and the responsibility for the final budget rests nominally with the council and primarily with the finance committee. When passed by the council this budget becomes the financial program for the ensuing year.[4]

Under the board system there is a board of estimates, usually composed of various city officials ex officio, as the mayor, comptroller, president of the council, etc., or of certain officials ex officio together with several citizen members, to which the heads of departments submit their estimates, and which, after consul-

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tation with the departments, prepares the budget to be submitted to the council. In some cities, particularly New York, this board of estimates is given almost complete power over the budget. There the council has no power to increase any item of the budget. Although the budget must be finally passed by the council and approved by the mayor, in cities having the board system the real responsibility for the financial administration of the city rests with the board of estimates; the council usually confirms the budget presented to it. This system is spreading rapidly among the larger cities of the country. In the commission governed cities, the budget is prepared by the commissioners acting as heads of departments and then passed by them acting as the city council.

When the budget is once determined, the tax rate is easily ascertained by dividing the amount to be raised by the assessed valuation. Both the assessment of property and the apportionment of the taxes is made by a separate set of officials usually called assessors. They valuate all the property subject to taxation, apportion the amount of taxes which each property holder must pay, and make up the assessment rolls. These are then turned over to the tax collectors who collect the taxes and turn the proceeds over to the city treasurer. In many cities the city treasurer also acts as tax collector.

The financial bookkeeping and auditing of accounts in all important cities is under the supervision of the city comptroller, auditor, or controller, as the case may

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be, who is usually an elective official, although in a few cities he is appointed by the mayor. The comptroller's office usually audits and examines claims against the city, checks bills, and sometimes does a considerable amount of inspection work. His chief duty, however, is the keeping of the accounts of the city, and the auditing the financial records of the other departments of the city government. Unfortunately there is little uniformity in the bookkeeping and accounts of different cities.

(5) Municipal Revenues. The chief source of municipal revenue is of course taxation. Most of the revenue is derived from the general property tax, or tax on real estate, although taxes of other forms are levied. Personal property is supposed to be taxed, but it is so easily concealed that little revenue is derived from it. Taxes are also levied on trades and occupations in the form of licenses — saloon licenses, theatre licenses, hucksters' licenses, etc. In many cities considerable revenue is received from franchise taxes from street railways, telephone companies, and gas and electric companies for the use of the streets.[5] In cities having municipal ownership there is considerable income in the true sense of the term received from public utilities, such as water works and lighting plants, stone quarries, municipal markets, and other business enterprises. In most cities the expense of permanent public improvements is met by special taxes or "special assessments" as they are called. This plan is us-

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ually followed in the improvement of streets, the laying of sewers, water mains, and similar enterprises; the cost of the improvement is assessed against those benefitted, as the property owners on the street, those using the sewer or taking water, and so on. But in the case of very extensive public works, such as the building of a high school building, a sewage disposal plant, or a water works system, money is borrowed by the sale of bonds which run over a long period of years. In this way the burden of the improvement is distributed over many years. In most states now the power of the city both to levy taxes and to borrow money is limited by the constitution or the legislature as a result of abuses in the past.

As a general rule city treasurers can only pay out money on order of the city council. An appropriation from the proper fund has to be voted by the council, and a warrant, signed by the mayor and comptroller or other accounting officer, issued on the city treasurer for the proper amount. These are then honored by the treasurer and paid, or usually may be collected at the bank.

(6) Police Administration. Peace and order in the city is maintained by the police department which is organized on the plan of a military company. At the head of the department and responsible for its administration is a board of police commissioners or a single police commissioner usually appointed by the mayor. Police boards are generally composed of citizen mem-

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bers who choose a chief, but when a single commissioner is in charge he himself acts as chief. Under the chief are deputies, inspectors, captains, sergeants, roundsmen, and patrolmen. The city is usually divided into districts or precincts, each of which has a station and a detachment of patrolmen under a captain. It is the duty of the roundsmen or sergeants to make tours of the city to see that the patrolmen are on their beats. In the larger cities the police precincts are grouped into larger districts with inspectors or other higher officers in charge.[6] In addition to these regular police officers, there are special police in the larger cities, such as the mounted police, the motorcycle squad, sanitary police, and detectives. All told, New York has a police force of over ten thousand, and Chicago has one of eight thousand.[7]

Police administration is a very difficult department of municipal administration. The opportunities for corruption in connection with the sale of the right to violate the laws and the protection of vice render a strict organization necessary. And even then epidemics of corruption break out periodically as the recent disclosures in New York City attest.

(7) Fire Departments. In some cities the police and fire departments are combined under the same head, usually a board of police and fire commissioners, but all cities of considerable size have a separate fire department. At the head of the department is the fire chief who is usually appointed by the mayor. The

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firemen are usually chosen under a civil service or merit system and enjoy a permanent tenure. Many cities have established pension funds for both police and firemen. The city is usually divided into five districts with fire stations located in each in order to be nearby if a fire breaks out. The departments are organized into companies — engine companies and hook and ladder companies — and several companies usually respond to a fire alarm, usually those companies in the vicinity of the fire. In the larger cities the companies are sometimes organized into battalions with a battalion chief in charge, and the battalions grouped into larger sections with deputy chiefs in charge. Over the entire organization is the fire chief who has general control over the discipline and management of the entire department.

Wonderful strides have been made in recent years in the improvement of fire apparatus.[8] With the perfection of the automobile, most cities are replacing the apparatus drawn by horses and substituting motor vehicles. Chemical engines are also being generally used for small fires. The number of fires are also being reduced by the building of fire-proof buildings and the establishment of fire limits within which frame buildings may not be built.

(8) Health Administration. No department of the city government has more power than the health departments. In cases of necessity, as during epidemics, their powers are almost unlimited. They may do any-

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thing which the general welfare demands. Most cities have a health board or health officer, appointed by the mayor or elected by the council, who has charge of the administration of the health department. With the growth of cities in population and the development of industry, the work of the health department has enormously increased. Boards of health not only abate nuisances, prevent the spread of contagious diseases, maintain quarantine, and manage hospitals, but they are charged with the inspection of nearly all the necessities of life. It is the duty of the health department to inspect the water supply; the food supply, such as milk, meats, fruit, and groceries; public and private buildings with reference to sanitary conditions; to supervise the collection and disposal of refuse and garbage; to regulate the establishment of offensive industries, such as slaughterhouses, soap factories, and tanneries; to inspect schools; to vaccinate children; to muzzle dogs; and to perform a large number of other functions relating to public health and safety. The actual administration of the department is in charge of a health officer who is chosen by and acts under the direction of the civil health authorities. Some cities have carried on organized educational health campaigns to instruct city dwellers on matters of hygiene, the care of infants, the use of milk, and other matters frequently neglected by the poor and ignorant. Chicago has taken the lead in this direction.[9] In addition to the health officer, there are in the health de-

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partment numerous inspectors, nurses, and clerks whose duties are to keep records, vital statistics, etc. In some cities the administration of the health departments have succeeded in reducing the death rate even below that for the country districts.

(9) Public Works. In the organization of public works administration the greatest variety exists. Some cities have a board of public works, and others have a commissioner of public works. In some cities all the public works of the city are under the board or commissioner, while in others there is a separate department for each important branch, as water works, streets, sewers, etc. But although no generalization can be made the tendency is plainly in the direction of consolidation. Grand Rapids, Michigan, affords a good example of a fairly efficient organization. It has a board of public works of five members appointed by the mayor, not more than three of whom can belong to the same political party. The members serve without pay, but the board employs a secretary and general manager who receives a salary of five thousand dollars. The secretary and general manager, under the direction of the board, has general supervision over all the public works of the city — the streets, sewers, water works, lighting plant, garbage crematory, and all other public works of the city. The board selects the city engineer, superintendent of streets, engineer of the water works and of the lighting plant, and all other officers and employes. In other words the board

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with the advice of the general manager directs the policy of the department and employs the experts. The board is directly responsible to the council for the administration of the public works of the city. In many cities the board is dispensed with and the general manager acts as commissioner of public works. More prompt and decisive action may be secured in the latter case, but the commissioner under that system is deprived of the advantage of the opinions of the members of the board who are usually representative business men and reflect the best opinion of the city. In addition to the officers who manage the public works of the city, the department frequently has supervision over other officials. Building inspectors, plumbing, electric, gas, meter, and other inspectors are frequently put under the board of public works, as are also smoke inspectors. Park superintendents, superintendents of public property and other departments are also sometimes included under the supervision of the board.

(10) Education. In the administration of the schools the board system prevails. In some cases the board is appointed by the mayor with the consent of the council, but frequently the members are elected by popular vote. Frequently the school board is a separate corporation quite independent of the council, and makes up its own budget, but as a rule its appropriations have to be secured from the council. In the past the practice was to have large boards but present tendencies are toward smaller boards — from five to twelve

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members. The school board chooses the superintendent of schools and with his advice appoints the teachers. Many cities have relieved the superintendent of the supervision of the school property and appointed a secretary or general manager to look after the business affairs of the board, leaving the superintendent free to devote his time to the teaching force and the educational system in general. Many cities now provide night schools, industrial schools, vocational training schools, and manual training schools, all of which are under the same school board. A few cities, like New York and Cincinnati, maintain municipal universities.[10]

(11) Other Departments. Other departments whose organization it would be interesting and instructive to trace if space permitted, are parks,[11] hospitals, cemeteries, markets, bath houses, playgrounds, and similar facilities which the city furnishes. In all the organization varies and few generalizations may be safely made. In passing, however, it should be noted that the present tendency is toward the consolidation of allied activities under a single department directed by an expert administrator. Consolidation has gone farthest in those cities having the commission form of government, and is likely to be carried farther still if the city manager plan should come into vogue.

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SUPPLEMENTARY READING

CHAPTER III

Municipal Administration

[1] **The Mayor's Message.**—It has been the theory of municipal organization in America that the mayor ought to have no share in legislation, that is to say, in the enactment of city ordinances; but with this theory the actual conditions have for a long time failed to coincide. It is true that in a few cities, notably in Chicago, the mayor is the council's presiding officer; but this is a practice quite out of accord with the general rule, for in by far the larger number of American cities the council chooses its own presiding officer, and the mayor does not take any part in its sessions or even attend them. This does not mean, however, that the mayor has no influence in shaping the council's actions. On the contrary, notwithstanding the doctrine of separation of power, he has commonly more real influence in municipal legislation than any councillor, or even than several councillors. This direct influence on local legislation arises from his exercise of two prerogatives, one positive and the other negative, one known as the right to suggest ordinances by message, the other known as the veto power. The practice of addressing the council by message or communication has in effect become a right to initiate measures in that body; for a message from the mayor is invariably referred to the appropriate council committee for report, and this report puts the matter squarely before the council for action. Moreover, among the members of the council the mayor always has one or more political friends who are known to be in such close touch with him as to be in a sense his unofficial representatives. These councillors usually see that matters recommended in the mayor's communications get such support as they can command; hence,

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when the political affiliations of the mayor are identical with those of a majority of the councilmen, it not infrequently happens that a recommendation from the mayor's office is tantamount to council action. It is to be remembered, moreover, that, since the mayor is often the recognized leader of his party organization in the city, his messages are understood to be the orders of the political machine and are hence not to be disregarded by those councillors who desire reputation for party regularity.

The mayor's right to address the council by message or communication is unrestricted. Ordinarily there is a long enunciation of suggestions in his inaugural address. Then from time to time follow shorter missives dealing with special matters, and not infrequently accompanied in each case by the draft of an ordinance prepared by the city's law officers at the mayor's request. This the council is asked to enact as it stands. Just how far the councillors heed these executive suggestions depends upon the caliber and personal influence of the mayor, upon the make-up of the council, and upon the political relations between the two authorities. When the mayor and the council represent different political parties, executive recommendations may count for very little; indeed, the very fact that the mayor favors a project is in such cases likely to be regarded by the majority of the councillors as the best reason for thwarting it.—*William Bennett Munro, "The Government of American Cities," pp. 221-3.*

[2] **The Mayor's Veto.**—It will readily be seen that in general lines the executive veto is alike in all three areas of American government, national, state, and municipal. It is a qualified, as distinguished from an absolute, veto power. As such it is a distinctly American contribution to the science of government. In no other country does the qualified veto exist. It is indigenous here, and to all appearances it is likely to remain an exclusively American political practice; for, although during the last century and a quarter many things have been borrowed from America, and woven into the political fabrics of other countries, the qualified veto is not one of them. Whatever may be the American estimate as to the worth of this institution, the

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makers of political systems abroad do not seem to have been impressed with its value. Even in the United States, opinions differ as to the usefulness of the arrangement, but not primarily as regards its service in the national and state governments. The difference of opinion rather takes the form of a serious question whether the veto has, or ever had, any proper place in the domain of local government. The institution, it is often urged, found favor with the framers of the national and state constitutions because they desired to give the executive a powerful weapon wherewith to defend its own field of authority. Having in mind the aphorism of Alexander Hamilton, that legislatures are wont to become tyrannical, they feared that, without some such weapon as that embodied in the veto power, the appropriate balance between the executive and the legislative arms of the government might be disturbed; and to men who believed implicitly in the teachings of Montesquieu, which came by way of Blackstone, such dislocation spelled the subversion of popular liberties. Now, in their effort to bolster the national and state executives against anticipated onslaughts in future years, the fathers of American government may have acted wisely and well. At any rate, these executives have retained all their authority unshorn, and on the whole they have not brandished their weapon with undue frequency or with vindictiveness. But in the field of local government no like excuse for the executive veto has ever existed. Even granting that the careful apportionment of authority between executive and legislative organs was ever here a desideratum, as it probably was not, there could have been no reason to fear that a dislocation of the balance would be fraught with danger or would lead to permanent misgovernment. For above the city and its affairs stood the all-powerful arm of the state, with authority to intervene at any moment in the interests of readjustment. Indeed, if any local organ ever had need of a weapon like the veto power wherewith to defend its own sphere of authority, it is certainly not the mayoralty. It is, in fact, this branch of city administration which, through its steady growth in strength, has made sorry work of the original balance of powers.

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As a matter of fact, the mayor's veto power has not, on the whole, contributed very greatly to the efficiency of the American municipal system. It has, no doubt, served the cause of economy and sound administration in a great many instances, but it has quite as often been an effective instrument of the political bully. Mayors have used it in cases without number to bulldoze and browbeat councils into submission. By vetoes and threats of vetoes councilmen have time and again been forced to choose between the executive assassination of their own measures and a policy of subserviency to the mayor in other matters. Boards of aldermen have been compelled to confirm appointments made by the mayor under the threat that measures in which aldermen and their constituents were interested would be decapitated. The power has, in a word, been used as a mayoral asset that might be traded for legislative compliance. It has become an instrument of political jugglery. Its existence has allowed councils to evade responsibility for an ordinance or an appropriation by putting the burden upon the shoulders of the mayor, and has allowed the mayor to reciprocate by tossing it back to the council, all this political play serving no other end than to befuddle the tax payer. Not least among the merits of the commission plan of city government is the fact that it relegates the mayoral veto power to the political scrap-heap.—*Op. Cit., pp. 224-227.*

[3] **The Comptroller—New York City.**—At the head of the department of finance is the city comptroller, who, like the mayor, may be removed by the governor on charges. Also, like the mayor, he receives an annual salary of $15,000 and casts three votes on the board of estimate and apportionment. The comptroller has power to inspect and revise the financial acts of all departments of the city. He may prescribe the forms of keeping their accounts. All payments by the city, unless otherwise specially provided by law, are made through a disbursing officer of the finance department by means of a warrant drawn on the city treasury by the comptroller and countersigned by the mayor. Whenever any claim against the city is presented to the comptroller he may require the person presenting it to be sworn and to answer any questions in regard to its validity. His

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authority to settle and adjust all claims against the city does not authorize him, however, to dispute the amount of any salary established under authority of law or to question the performance of his duties by any public official except when necessary to prevent fraud.

There are six bureaus in the department of finance. One of these is the bureau for the collection of rents, and revenues arising from the use or sale of property belonging to the city. This bureau has charge of the city's markets. It is the duty of the second bureau to collect the taxes; and of the third bureau to collect special assessments and delinquent taxes and water rents. The fourth bureau has charge of the auditing of accounts. The fifth bureau is the city treasury and is in charge of an officer called the city chamberlain, who is appointed by the mayor. The sixth bureau has charge of municipal investigations and statistics. At the head of this bureau is a supervising statistician and examiner. As many expert accountants may be employed under this official as the comptroller deems necessary. The principal duty of this bureau is to compile statistics. It also has charge of the old records of the various municipalities which were consolidated to form Greater New York. All of the heads of bureaus in the finance department, except the city chamberlain, are appointed by the comptroller. It can readily be seen that the office of the comptroller in New York City is hardly second to that of mayor. As experience has demonstrated in the last few years, when the comptroller is opposed to the construction of subways with municipal funds he is in a position to throw many obstacles in the way and make it practically impossible to proceed without resorting to private capital.

The appropriation for the maintenance of the department of finance outside of the city treasury was $1,489,090 for the year 1909. The appropriation for the chamberlain and his subordinates in the treasury bureau was $55,950.—*Delos F. Wilcox, "Great Cities in America," pp. 109-10.*

[4] **Need for a Municipal Budget.**—As in the case of the state government, the most important functions of the city at present are those connected with raising and disbursing funds·

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and, inasmuch as corruption and inefficiency are constantly arising in our municipal finances, special attention has been given within recent years to the problem of budget-making and effective control over city expenditures. In our great cities the financial problem is vast and complicated. The budget of the city of New York for the year 1909 totalled $156,545,148.14 — five times the budget of the state for the same year, and four times the combined budgets of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, and Georgia. The annual increase of the budget of New York within recent years has been greater than the total budget of St. Louis or Baltimore and Cleveland combined — five times greater than the total budget of Louisville, Ky., and ten times greater than the total budget of Kansas City.

Even if all of the officials of the city administration are men of unquestioned integrity, great waste and extravagance in expenditure will inevitably arise unless there is provision for the most scientific bookkeeping and adequate scrutiny and control by capable and responsible authorities. An investigation in New York City, in 1908, resulted in some remarkable revelations. It was discovered that cheap coat hooks which any citizen could buy for five cents apiece had been purchased by the city at sixty cents apiece, with an additional charge of five cents for each small screw used to put up the hooks. One hundred and sixty-five hooks, 172 bolts, and 18 screws cost the city of New York $117, and it took two workmen thirty-one days at $8 a day to put up the 165 hooks — making a total cost in materials and labor of $365.10, or $2.21 a hook. It was found also that the police department paid 21 cents a pound for nails which any private citizen could get for 4½ cents. A charming bit of "high finance" in street contracting was also unearthed: a contractor who was paid to make excavations for paving a street was also paid $900 for filling in a near-by road with the dirt removed from the first one. Similar extravagances and wastes could undoubtedly be discovered in any other large city in the Union.—*Charles A. Beard, "American Government and Politics," p. 603.*

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THE ELABORATE CIVIC CENTER PROPOSED FOR DENVER, COLORADO

One of the many plans for remaking a city.

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[5] **Franchise Taxes.**—The owners of franchises, however, have very strenuously fought this form of taxation on the ground that inasmuch as their franchises were exempt from taxation at the time of granting the imposition of a tax is simply confiscation. For example, a street railway company holds a franchise. It invests $100,000 in its plant, tracks and rolling stock, but by virtue of the monopoly which it enjoys is able to pay a dividend of five per cent upon $200,000. Under such circumstances the franchise alone would be treated as worth $100,000, although, in fact, efficiency in operation might be partly responsible for the large dividend. Under the old law the corporation would pay a tax on only $100,000 — the value of its tangible property; but if the franchise is taxed as real estate at two per cent the corporation must pay on $200,000 valuation. Thus by taxation two-fifths of the capital value of the franchise, that is $40,000, is cut away. The dividend paid by the corporation is thus reduced on account of the necessity of paying that rate into the treasury of the city.

The expediency of taxing the franchises of public service corporations is the subject of no little debate. The taxpayers of cities usually favor putting a portion of the burden upon the public-service corporations on the ground that it reduces the tax rate. On the other hand, the customers of the public-service corporations prefer to see charges for gas, electricity, and the like reduced rather than any relief afforded to the taxpayer. The franchise tax is at bottom, as Dr. Wilcox remarks, "a consumption tax on the common necessities of life which appears as a special burden upon the poor and is therefore unjust and undemocratic. On this theory, then, democracy will necessitate that franchises for the supply of the common necessities of urban life must have their value regulated in the interest of cheaper and better service."—*Charles A. Beard, "American City Government," p. 141.*

[6] **State Police.**—The reasons for the adoption of centrally appointed police forces, apart from transient partizan political ones, are two in number: One is the general dissatisfaction with

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local police management. This was largely responsible for the state appointment of the police commission in New York in 1857. It is, of course, true that partizan-political reasons had their influence then, but it is none the less true that the condition of the police force in New York under local management was a bad one.

The second reason for the centralization of municipal police forces has been the neglect of cities, having the management of the police, to enforce state laws which were believed to be of vital importance by the people of the state as a whole, particularly the prohibition laws.

It is difficult to obtain any satisfactory testimony as to the effect of state administration of the police force in the cities of the United States on the preservation of the peace and the maintenance of good order. The testimony would, on the whole, seem to be in favor of a state appointed police force, although it cannot be said that a state appointed police force is any more successful in securing the enforcement of Sunday closing, liquor, or prohibition laws than a locally appointed police. Ex-Mayor Quincy, of Boston, is reported as saying: "I am free to say that under the present board (the police board in Boston has since 1885 been appointed by the governor of the state) police administration has been better, the laws have been more strictly enforced, good order has been more generally maintained than under the old system. When the tone of the state government is higher than that of the city government centralized-police administration is the better system. The strictly police functions are more properly a state affair than most of the other departments of the city government."—*Frank J. Goodnow, "City Government in the United States," p. 223.*

[7] **The Police and the Courts.**—The criminal courts are an integral part of the police system, not separate judicial institutions to be treated under the head of the judiciary. The spirit and method of the magistrates determine in a large measure the effectiveness of police control. Magistrates with an academic knowledge of the law and without an intimate acquaintance with the habits of criminals and the difficulties which the policemen

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encounter in securing absolute legal proof in all cases, may destroy the zeal of a force by allowing notorious criminals to escape on technical grounds.

Mr. McAdoo, in his book on the police system of New York City, gives an example which illustrates the danger that arises from a lack of sympathetic coöperation between the courts and the police. An officer brings a prisoner into the court and says to the magistrate, "This man is a pickpocket; he is a vagrant; his picture is in the Rogues' Gallery. This is the seventh time that I have personally arrested him; I caught him on a Thirty-fourth street crowded car with two or three other pickpockets who escaped. A great many citizens are having their pockets picked every day. He has no honest means of support. Down at the detective bureau all know him as a professed crook all his life. He is a dangerous man to be at large." The magistrate then demands from the officer legal proof that the prisoner has no means of support. This, of course, the officer cannot produce and he is confounded when the prisoner "hauls $500 bills out of every pocket, shows a large diamond and calls up an accomplice who swears that he keeps a small tailor shop and that the prisoner works for him." The magistrate, ignorant of the tricks of the trade, discharges the prisoner and roundly abuses the officer with interference of "personal liberty." The spirt of the officer is thus broken; and when he discovers another branch of the thieving fraternity in operation, shrugs his shoulders and thinks, "What's the use?"—*Charles A. Beard, "American City Government," p. 173.*

[8] **Fire Protection.**—Probably no town in any country has reached even the dimensions of a considerable village before some measures are taken to secure organized action in cases of fire, such as providing fire buckets and ladders. Later, volunteer fire companies are organized, at first entirely unofficial in character; but in time the municipality comes to provide apparatus, buildings, and other articles of equipment, so that the volunteer companies assume a semi-public character.

In the colonial towns of America the first measures for fire protection were the primitive requirements that householders

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should keep in readiness a certain number of ladders and buckets, enacted first about the middle of the seventeenth century. The first pumping engine in America seems to have been ordered for Boston in 1702. Philadelphia secured one in 1718, and New York in 1731. These were hand engines, with a tank filled by buckets or stationary pumps; and not until about 1820 did suction engines appear. These early engines were frequently paid for by the municipality, but they were manned and operated by volunteer companies.

Since 1870 there has been a steady extension of the system of paid, organized, and disciplined fire brigades throughout the civilized countries, but most of all in the American cities. A marked development in the apparatus and equipment has also taken place. Swinging harness to hasten the hitching of the horses to the fire wagons was first used at Allegheny and Louisville in 1870. In 1872 the first fire boat was built, for use in Boston harbor. Three years later a similar boat was secured for New York, and since then other cities located on bodies of water have purchased fire boats for use on the river, harbor, or lake front. The water tower was invented in 1876, and came into use in New York in 1880 and in Boston in 1882. The fire alarm telegraph was introduced in 1876. Chemical engines were first used in Canada in 1883; and in 1886 these were introduced in Chicago, Milwaukee, Springfield (O.), and Lawrence.—*John A. Fairlie, "Municipal Administration," pp. 151, 152, 153.*

[9] **Chicago's Health Exhibit.**—The Chicago health department maintains a permanent health exhibit, demonstrating by models the dangers to health in a great city. According to The American City, "One display which is found at all child-welfare and municipal shows, and various Chicago expositions, shows 3,500 miniature dolls, representing the unnecessary deaths among babies born in Chicago each year. In the center of this exhibit is an opening behind which is a procession of the doll babies passing beneath the scythe held in the hands of the grim figure of Death. The scythe falls on every fourth doll, which immediately drops from view. It is operated by a person concealed in the box.

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This startling demonstration of Death dealing with Chicago babies always makes a deep impression on exposition visitors, and causes them to realize as never before the great crime of the city in permitting every fourth baby born to drop into the grave before reaching the age of one year. One of the placards on this exhibit says that more than half the slaughter can be prevented if the public will only do its duty. Health officers from all parts of the country and others interested in matters of health find this exhibit, which is maintained permanently at the City Building, worthy of study.

Another instructive exhibit is the breathing dolls, a model operated to demonstrate the dangers of poorly ventilated sleeping chambers. In one of the small rooms a mother and baby are sleeping. They are shown to be breathing, and the air expelled from their lungs is carried out as smoke through the open door and windows.

Underneath this is a duplicate scene with breathing sleepers in a tightly closed room. Their breaths, also represented by small puffs of smoke, completely clouds the room, clearly demonstrating the ill health resulting from pollution of a closed room.

New York, Boston, Cleveland, Rochester, Chicago, and other progressive cities have consulting clinics at the milk stations, schools, hospitals, and other convenient places for the special benefit of mothers seeking guidance in the care of infants.—*Charles A. Beard, "American City Government," p. 281.*

[10] **Medical Inspection of Schools.**—The old cant phrase about a sound mind in a sound body is now finding some practical application in our schools. Medical inspection and the close supervision of the physical condition of children are coming to be recognized as solemn public obligations and as we have noted above in the chapter on public health, the care of the school child's eyes, teeth, and body generally is being vested in public authorities, connected with either public health or school administration. Hospitals, dental clinics, and periodical physical examinations of school children are becoming elemental parts of our educational systems.

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A plan of medical inspection in schools began in Boston as early as 1894 and spread rapidly to other Massachusetts cities. According to a report of the department of child hygiene of the Russell Sage Foundation, published in 1911, "in 552 cities vision and hearing tests are conducted by the teachers and in 258 cities this is done under the direction of doctors. For the service of medical inspection in cities 1,415 doctors are employed, more than half the number being cities of the North Atlantic States and more than one-fourth in the North Central States. School nurses supplement the work in 415 cities, ninety per cent of the number being employed in the same two sections of the country. The services of doctors are donated in seventy-five cities and of nurses in twenty-one cities. In the remaining cities salaries to examining physicians range from fees according to services up to $4,000 a year."

On the basis of medical inspection, it is estimated that about a quarter of a million school children in the United States are predisposed to tuberculosis, and recognition of this fact has given a great impetus to the development of open-air schools. Providence, R. I., claims to have been the pioneer in this new work. The windows of certain schoolrooms were opened there in 1907, much to the astonishment of the country. So novel was the experiment that newspapers gave columns to it and school committees came from far and wide to look at it. In 1908, three cities had outdoor schools; in 1909, five cities, and in 1910, twenty-seven schools and about fifteen cities had adopted this new feature.—*Charles A. Beard, "American City Government," p. 326.*

11 **Parks.**—The management of parks in American cities is nearly always under the control of a special board, either locally elected or appointed by municipal authority. Such park boards are found even in Boston and Cleveland, where single-headed departments are the prevailing system. Usually the park boards consist of from three to five members, but in Buffalo there are fifteen commissioners. Chicago has three separate boards for the parks in different sections of the city. In New York City there are three park commissioners, each of whom has jurisdic-

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tion over the parks in a certain district. St. Louis has a single park commissioner.

In almost every case the park boards are independent of the other authorities having control over municipal improvements. Only in St. Louis is the park commissioner made a member of the municipal board of public improvements. The independence of the park management from the other branches of municipal administration is emphasized in the case of state-appointed boards at Chicago, the Massachusetts metropolitan park commission, and the commission for the proposed interstate park along the palisades of the Hudson river.—*Op. cit., p. 268.*

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CHAPTER IV

MUNICIPAL FUNCTIONS

THE functions of the city have, during the last few decades, increased very rapidly, and are still increasing at a rapid rate. When American city government was instituted the administrative duties of the city were few. There were no street railways, or telephones, or telegraphs, no municipal gas or electric light plants, and no water purification, sewage disposal, and garbage reduction plants. There were no miles of expensive pavements, or hundreds of acres of parks and parkways, with municipal greenhouses, public baths, playgrounds, and gymnasiums. There were some wooden pavements and some open sewers. The municipal lighting plant consisted of the lamplighter who went about at dusk and lighted the lamps on the street corners, and every man's well was a part of the municipal water supply. The principal functions of the city were the protection of life, liberty, and property, the care of the poor, and the administration of the public schools.

But with the growth of population and its concentration in urban centres the functions of the city have increased. Many of the functions which were formerly

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performed by private initiative have been assumed by the city. New conditions have given rise to new problems. As cities have become crowded, problems of housing and sanitation have arisen. As traffic and business interests have grown, problems of paving, dust prevention, and smoke abatement have appeared — problems of water purification and sewage disposal, of milk and food inspection, problems of organization and administration, of accounting, the regulation of public services, special assessments, problems of public recreation, parks and playgrounds, city beautification, questions of municipal employment, and a hundred and one other problems and questions incident to growth and the spread of social intercourse. And with every change in the social, economic, and political conditions of the country more of these problems arise. With every invention of a labor-saving device, and with every new combination of capital their number is increased and their complexity multiplied. Great power plants are being developed. Heating plants, water-power and electric plants, and other great industrial enterprises which use the streets and furnish public service to the citizens of our cities are being added daily and these must be regulated and controlled. All these changed conditions and new problems have greatly enlarged the field of municipal activity and increased the functions which the modern city has to perform. Not only, therefore, does the city perform the traditional functions of local government, but it performs indus-

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trial, social, and many general welfare functions as well. The city is being called upon more and more to perform functions which the general welfare of the people demand for their health and convenience.

(1) Governmental Functions. The functions which the city performs naturally fall into two classes, governmental functions and municipal functions proper. The city, it will be remembered, occupies a dual position: it is an agent of the state and it is an organization or corporation for the satisfying of local, special needs. As an agent of the state it performs governmental functions; as a local corporation it performs municipal functions. Municipal functions, then, in the proper sense, are confined to the work which the city does in satisfying its local needs. But it is oftentimes difficult to distinguish between a state function performed by a city and a municipal function, although the necessity for such a distinction is sometimes essential. A city cannot be held liable for damages in the performance of a governmental or state function, while many times it may be held liable for negligence in performing a municipal function, as laying a sewer, keeping a street in repair, or operating a water plant. In general, those functions in the faithful performance of which the people of the entire state are interested are state functions, while those which are of special interest or benefit to the locality are municipal functions. Frequently, however, custom or tradition is responsible for the legal distinction between the two.

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Among the most important governmental functions which the cities of the United States perform is the preservation of peace and order. Police administration has always been considered a state function although delegated to the cities. In some cities the police force is under the control of a board appointed by the state government, but this is the exception and not the rule. In most cities the municipal police force has a free hand, and is little subjected to central control. In addition to the maintenance of peace and order, the city exercises many other functions under the general police power which are necessitated by the concentration of population. It suppresses vagrancy and petty crimes; it regulates street traffic; it inspects milk, fruit, meat, and other food products; it regulates the construction of buildings, and inspects plumbing and wiring; it licenses certain trades and occupations, amusements and dangerous pursuits; and it enforces sanitary rules for the prevention of nuisances and the spread of contagious diseases. And in this connection cities maintain courts and prisons.[1]

Protection against fire is also a state function which has been delegated to the cities. Although each locality is particularly interested in an efficient fire department, and one would naturally think fire protection a purely municipal function, it has always been held in American law to be a state function, and no person who is injured through the negligence of the city in this connection can collect damages from the city. But

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the equipment and control of fire departments have invariably been left to the municipality. Denver, Colorado, is the only city where the state has ever exercised any control. Owing to the rapid growth of American cities, and to the prevalence of wood construction with its accompanying fire risks, American fire departments have been developed both in apparatus and training far beyond those of any other cities of the world.[2]

The activities of the city in the preservation of the public health, in the administration of charity and poor relief, and in the maintenance and management of the public schools are all conducted as an agent for the state and not as a local corporation. In all these cases the state exercises a more or less effective control and supervision, especially in connection with the health departments and the schools. In many cities poor relief is left entirely to the counties. But in all of these departments the average city goes further than it would be required to go by the state and maintains other facilities demanded by local urban needs. Thus many cities maintain general hospitals. New York maintains a home for dependent children. Philadelphia, Boston, St. Louis, and several other cities maintain insane asylums. Recently Chicago, Boston, Cincinnati, Minneapolis, and several other cities have started municipal lodging houses.[3] A few have opened municipal employment bureaus. Along educational lines, many cities maintain special schools. New York

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and Cincinnati maintain universities. Many cities have various normal, vocational, and industrial schools, and every city of any size has a public library, while all the larger cities have art galleries and museums.

(2) Municipal Functions. The other principal functions of the city may be classed under municipal functions, or those functions which the city performs in its proprietary capacity. In the performance of these municipal functions the city acts as a quasi-private corporation, and like a private corporation can usually be held liable for damages in case of injury through negligence. The field of municipal functions proper has never reached the magnitude in American cities that it has abroad. The industrial functions of many German cities cover not only the usual public utilities such as water, gas, tramways, electric lights, etc., but include stone quarries, cement works, restaurants, pawnshops, abattoirs, sewage farms, savings banks, and many commercial enterprises which the American city has never been permitted to undertake. In many directions, however, the tendency is now visible in this direction in many American cities.

(3) Street Facilities.[4] The maintenance of streets is sometimes classed as a state function and sometimes as a municipal function. In those states, such as New York, where the city owns the fee in the street it is classed as a municipal function, while in other states it is undoubtedly a function performed for the state. The maintenance of highways has always been

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classed as a state function, but in many ways the law of highways is not applicable to streets in cities. In all cities the management of streets is left to local authorities, and the cost is usually borne largely by the abutting property owners. At first the paving of streets was left to the property owners, and when the matter was taken over and regulated by the city, the cost was still assessed against those whose property was benefited. Street intersections are usually paid for by the city. Where street railway tracks are laid in a street, it is customary to require the company to pave between the rails and for a certain number of inches on each side. In the case of sidewalks, property owners are usually required to bear most of the expense.[5]

Street cleaning has now become a function which the city invariably performs. For many years this was also left to private initiative, but the demand for better sanitary conditions in cities led cities to assume control. In all American cities the cleaning of streets is now a municipal function, and with the assumption of this duty by cities, the improvements in street cleaning machinery have been rapid. Various street sweeping machines drawn by horses or propelled by motors have been perfected, and in some of the larger cities vacuum cleaning machines are being used which not only clean the street thoroughly, but which do so without raising the dust. Many cities, particularly in the northern states, also remove snow in the winter time.[6]

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Street sprinkling is coming to be a municipal function, although not so general as street cleaning. In many cities the sprinkling of streets is still left largely to the people living on the street. Some cities merely look after the streets of the business portion, leaving the residence streets to the residents themselves. In the majority of cities, however, the work of sprinkling the streets is assumed by the municipality and the cost assessed to the property owners on the street. With new and improved methods, dust prevention and street cleaning are being combined. Street flushers, which literally wash the street, allaying the dust by removing it, are coming to be used on smooth pavements such as brick and asphalt. On macadam and other crushed stone pavements, street oil is being used. Street oiling has grown very rapidly during the last few years. Not only does the oil prevent the dust from rising, but it acts as a binder for the street, preventing the formation of dust and preserving the pavement.

(4) Water Works. Of the industrial functions which American cities have assumed, that of furnishing the water supply has reached the greatest magnitude. Municipal ownership has been more common and more successful in the case of water works than in any other public utility. Boston was the first city to establish municipal water works, having established its plant in 1652, but of the sixteen plants in existence in 1800, only one was municipally owned, the other fifteen being privately owned. At the present time,

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however, approximately two-thirds of the water works of the country are municipally owned. Of the thirteen largest cities of the United States, San Francisco is the only one that has a private water supply. In 1903, of the 175 cities having a population of 25,000 and over, 133 owned their own water works, and of the fifteen plants which were privately owned in 1800, fourteen had then become municipal plants. The necessity of securing pure water for cities and the fact that municipal supplies can be more easily controlled than private supplies have probably been the chief reasons for the spread of municipal ownership.

With the increasing density of population the problem of securing a pure water supply has become more important. Many cities have been obliged to spend millions of dollars for this purpose. New York is now completing a water aqueduct to the Catskill Mountains, a distance of ninety miles from the city, which is tunnelled through solid rock, at some places six hundred feet below the surface. It passes under the Hudson River, the East River, and under the Narrows to Staten Island. The project will cost $162,000,000. Los Angeles is completing a water project which will bring water from the Sierra Nevada Mountains to the city, a distance of two hundred and ninety miles. The aqueduct passes through a tunnel under the Sierra Madre Mountains, and across the great Mojave desert to the perpetual snows of the Sierra Nevadas. The project will cost $25,000,000. Over two-thirds of all

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the capital invested in municipal industries in the United States is now invested in water works.

The problem of furnishing the city with water is further complicated by the necessity of installing methods of purification. In earlier times, water taken from large rivers and lakes was comparatively pure and could be used for domestic purposes without treatment. But with the growth of cities, streams and lakes are becoming polluted with sewage and manufacturing wastes, and even in the case of great bodies of water like the Great Lakes, untreated water is frequently unsafe. Chicago, Milwaukee, and Detroit frequently have difficulty with their water supply. It is entirely probable that within a short time no water supply, with the exception of artesian wells, will be safe until treated by some process of water purification. No recent data is at hand in regard to the number of purification plants in use in American cities, but in 1902, according to the Municipal Year Book, 311 cities reported some system of purification. Since that time the installation of purification plants has been marked. The method of purification most commonly used is some process of filtration.[7] Slow sand filtration has been common in Europe, but during recent years modern methods of mechanical or rapid sand filtration have been commonly adopted in American cities.

(5) Electric Light Plants. Municipal ownership has not spread as rapidly in the case of municipal electric light plants as in the case of water works;

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among the smaller cities it is spreading very rapidly. The reason for this probably is that in the small city the inducement offered for commercial capital is not sufficient and the city, to secure an electric plant, is obliged to own it itself. The Bureau of the Census in 1902 reported 815 municipal electric plants; in 1907 it reported 1,252, an increase of 53.6 per cent. During the same period, commercial plants increased 23.4 per cent. Thirty-three plants reported as municipal plants in 1902 had become commercial plants in 1907, but 113 commercial plants had become municipal plants during the same period. This would seem to indicate a trend in favor of municipally owned electric plants, but of course the period of observation is too short to form a trustworthy conclusion. The development of municipal plants in the large cities has been slower, but this has probably been caused as much by the influence of the powerful electric companies wishing to retain control of a very lucrative field of commercial enterprise and the retarding influence of long-time franchises, as to any hesitation to apply municipal ownership in such a complex and technical enterprise. Much criticism has been promulgated about the municipal ownership of electric plants in this country, and much literature has been circulated concerning supposed failures in municipal plants, but the careful report of the American Civic Federation in 1907 shows that many if not most of such reports are either entirely false or greatly exaggerated. Although it is not

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probable that commercial light and power plants will all soon be municipalized, the success of municipal operation so far has shown that there is a field well adapted to municipally owned stations.

(6) Gas Works. Municipal ownership and operation of gas works has not been undertaken to any great extent in American cities. In Germany and England municipal gas works are common, most of the gas works in the larger cities being municipally owned, but in America no large city except Philadelphia has ever attempted municipal operation. Philadelphia soon leased its plant to a private company on a thirty-year lease. It is generally understood that much political pressure was used to secure the lease, and that municipal operation was not abandoned as a result of popular demand. There are now in operation thirty-four municipal gas plants, and in several other cities the municipality owns a large part of the stock of the private corporation, as in the case of Louisville and Danville, Ky., and in one or two other cities.

(7) Garbage Disposal. A municipal function of growing importance is the collection and disposal of garbage. For a large city this is a perplexing and costly function. Only a few years ago garbage was, and in the smaller cities still is, disposed of by the householder in any way possible. A favorite way was to give it to farmers who collected it when they felt like it. But now a majority of the cities, on account

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of sanitary reasons, collect and dispose of garbage and refuse, although the report of the Census for 1907 shows that 34 of the cities having 30,000 or over population (one-fifth in number) still leave the matter entirely to private arrangement. In 1909, 123 of the 158 cities having a population of 30,000 or over collected garbage at the expense of the city while 135 disposed of it at public expense. Cleveland reduces its garbage for the grease, fertilizer, and other by-products which it obtains, and receives annually a revenue from this source of about $130,000. In 25 other cities the garbage is reduced by private companies. In 36 cities in 1909, garbage was disposed of by incineration. This, of course, is the best method for complete destruction of the garbage, but it is usually expensive, and many times creates a nuisance, as is also usually the case of reduction plants. A few cities, such as Minneapolis, utilize the heat necessary for incineration to generate steam power for heating or lighting purposes. In a large number of cities, however, garbage is still disposed of by being fed to hogs. A total of 37 cities out of the 158 disposed of their garbage in this manner. Other methods used are dumping on land, dumping in water, and burying.

The question of garbage disposal has not yet received a satisfactory solution in this country, and in general it may be said that we are behind many European countries in this respect.

(8) Sewage Disposal. Another municipal function

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THE NEW CIVIC CENTER, ST. LOUIS
City Hall on Left and Municipal Courts on Right

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which is growing in importance is the disposal of sewage. In 1893, only 31 cities, large and small, had established systems of sewage disposal. By 1902 the number had increased to 95. Data is not available showing the increase since that time, but it is probable that the number of plants has increased at a proportionate rate at least. With the growth of cities, both in number and population, the necessity of at least partial purification before permitting sewage to be emptied into rivers, lakes, and streams is becoming more apparent to everyone. This is not only necessary from an æsthetic point of view, but from the hygienic point of view in protecting public water supplies, oyster beds, and other food supplies from pollution. Baltimore, Md., was recently required by the government to install over a thousand miles of sewers and to put in a new system of sewage purification to protect the oyster beds of the bay. As has already been pointed out, the problem of securing an adequate water supply has already become a very serious problem in many cities, and immediately connected with it is the problem of preventing stream pollution.

The most common way of meeting the problem in American cities is the installation of purification plants. Sewage farms have been adopted by many European cities, where the sewage is irrigated on the land and made to serve as fertilizer, but in this country sewage farming has not been used to any great extent, and probably will not be except perhaps in some of the

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cities of the West where irrigation is necessary anyway. The common methods of disposal utilize the septic tank as a means of liquifying the solids in the sewage and then destroying the bacteria by processes of filtration. In these processes of purification biological methods are utilized;[8] microbes are utilized to destroy microbes, and in all of the most modern plants a very high degree of purification is secured. Though not as expensive and delicate plants to operate as water purification plants, sewage disposal plants are sure to represent a large investment for the cities of the future, and will constitute one of their most important functions.

(9) Municipal Baths. In addition to the governmental functions and the industrial or business functions which cities perform, there is a new and increasingly important and widening group of functions which the city performs in the interests of the general welfare. Only a few of these can be mentioned here, but the class as a whole represents activities of the city which are sure to be extended very rapidly in the near future. Among such functions are those of furnishing municipal bathhouses, natatoriums, public comfort stations, rest rooms, auditoriums, theatres, lodging houses, municipal tenements, washhouses and laundries, municipal markets, and other facilities which our modern complex social conditions demand.

The principal kinds of baths found in American cities are beach baths, floating baths, pool baths, shower

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baths, and combinations of these types. The beach baths are the oldest and simplest baths. Boston started one of these baths in 1866;[9] it now maintains ten. Milwaukee, Chicago, Cleveland, Minneapolis, Detroit, and many other cities now also maintain several such baths. Boston and New York were also the first to establish floating baths. Boston now maintains twelve, New York fifteen, Brooklyn five, a large number of other cities from one to five such baths. These are floating platforms, with the pool constructed in the center and the dressing rooms arranged around the sides. Some such baths are very large and expensive, as in Boston and New York, but may be very simple and inexpensive affairs. They are available of course only to cities located on bodies of water. For inland cities, or cities where the available water is polluted, the pool is the most popular type of public bath. Philadelphia was the first city to establish such baths and now maintains fifteen. Chicago and a large number of other cities now maintain several of these pool baths. Shower baths are frequently provided in the same building with pool baths, and in most cities the bathers are required to take a shower bath before being allowed to enter the pool. The advantage of such baths is that they may be operated the year around. The necessity of maintaining public baths as a means of promoting the public health is now generally recognized, and the number of municipal baths and natatoriums is rapidly increasing.

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(10) Comfort Stations. European cities have quite generally made provision for the comfort of the public by providing public lavatories and comfort stations, but American cities until a few years ago sadly neglected the problem.[10] New York, Boston, Cleveland, Washington, Seattle, Detroit, and most of the larger cities now provide from a half dozen to a dozen such conveniences. Some are built above the ground, but where this is impossible they are built under the ground. Cleveland has combined in a convenient and efficient way a public comfort station and trolley waiting-room on its central square. The comfort station is below the ground, and the waiting-room above is so constructed that the sides may be removed in summer time and replaced in the winter. The average daily attendance is from 4,000 to 7,000. The daily use of such conveniences should demonstrate their necessity. In an investigation of the subject in St. Louis, replies from over two hundred physicians were unanimous in the opinion that public comfort stations were an absolute necessity from the point of view of public hygiene. To the healthy, such stations are a great convenience, but to the delicate and unwell, they are an absolute necessity. Many cities have erected such stations in their parks and civic centers that are of great architectural beauty and add materially to the pleasure of the landscape as well as to the comfort and convenience of those who visit there.

(11) Municipal Markets. Nearly every municipal-

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ity of continental Europe has a monopoly of market rights. In America our general political theories have prevented cities from exercising control over marketing facilities, and municipal markets in the European sense are not found in American cities. But the maintenance of markets is nevertheless an important function of the American city. Most of our larger cities maintain several municipal markets with large market buildings, while most of the smaller cities own city market places or squares, even if they do not maintain market buildings.[11] Some markets, particularly of Columbus, Ohio; Washington, D. C.; St. Louis, Detroit, and other cities, have been very successful and have undoubtedly had their effect on the cost of living. In many cities, however, the municipal market as a means of controlling prices and reducing the cost of living has not been successful. Mayor Shank of Indianapolis recently conducted some interesting experiments along this line. Noting the exorbitant price of potatoes and apples in the city of Indianapolis, he sent a man into Michigan to buy some. He found that he could buy potatoes and apples, pay the freight and add ten cents for delivery, and still retail them at eighty-five cents per bushel, while the retailers were charging from $1.65 to $2.50. Immediately the retailers dropped their prices to those at the city market, but the mayor bought and sold twenty-seven carloads. Cleveland is now operating its own fishing tugs and retailing fish at the city market at five cents a pound,

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whereas the dealers but a short time ago were charging ten. If properly managed a municipal market can and undoubtedly should be operated to control within reasonable limits the prices of foodstuffs.

(12) Other Municipal Functions. Gradually the American city is branching out, and adding to its regular functions activities of a new kind. But it has still a long way to go before it can cover the broad field covered by the activities of many European cities. No city in America, for instance, has ever operated a municipal pawn shop,[12] or a municipal savings bank,[13] yet such institutions are run by many cities of Germany, France, Belgium, Holland, Italy, and other European and Asiatic countries. Many of the cities of Russia even operate commercial banks. The cities of Germany own and manage fire insurance undertakings and even restaurants. In none of these undertakings have American cities been permitted to engage, but a few American cities have operated other functions commonly undertaken by European cities. A large number of English and European cities own and operate the street railways of the city. This has not been generally done in America, yet there have been one or two exceptions. Cincinnati was the first to construct and own a transportation system. Grand Junction, Colo., also operated its street car system at one time, and Monroe, La., is still operating some ten miles of road, but Cleveland and San Francisco are the first cities of importance to undertake the opera-

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tion of municipal street cars in this country. San Francisco has just completed a new line and Portland and Seattle now have the question under discussion. New York, however, has for many years operated a municipal ferry line, and is at the present time operating some of the finest ferry boats in the world. The city has been very successful and is practically driving the old private companies out of business by the sheer force of competition. New York also has recently completed some of the largest and finest docks in the world.[14] San Francisco also has magnificent ferry dock facilities. Los Angeles owns an irrigation system, and Toledo a municipal brick yard. Denver, Colo., has one of the largest auditoriums and municipal theatres. Many cities own and operate stone quarries. Los Angeles in connection with its new water system constructed a cement factory, and is planning on generating power from its water supply. Boston has for many years operated a city printing plant. A few cities have built municipal tenements and lodging houses, a few maintain employment bureaus, and several carry on various trades in connection with their jails for the purpose of using their prison labor. But these are isolated instances; the average city does not engage in any of these enterprises, although the present tendency is to gradually extend its activities to cover some of these and other functions.

(13) Civic Centers. Just a word should be said about city planning and the construction of civic cen-

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ters. Most American cities, like Topsy, have "jest growed." Washington is the only city that was deliberately planned. The result is that nearly every city now feels the need of a general plan to follow in its future development, and to have in mind in carrying on its various improvements. The city without a plan soon finds that it has to undo much of its work —to widen narrow streets that were never planned as thoroughfares, to convert residence into business districts, and to carve parks out of the center of congested sections. Such experiences have impressed upon most of the cities of the country the necessity of stopping to look ahead and to construct a plan for future guidance in civic and industrial growth and expansion. Over seventy-five cities have adopted such plans and have had them printed. These plans not only lay out a program for development, but cover the laying out of streets, parks, playgrounds, and civic centers, and plan transportation facilities, housing accommodations, factory districts, residence sections, and other municipal conditions for twenty-five to fifty years in advance. Cleveland, Chicago, St. Louis, Denver, Seattle, Washington, and other cities are among those which have prepared elaborate and comprehensive plans to guide the future growth and development of the city.

A feature of most of these plans is the civic centers and public squares planned for the center of the city. Cleveland's civic center is one of the most elaborate, as is also that of St. Louis. Chicago has also outlined

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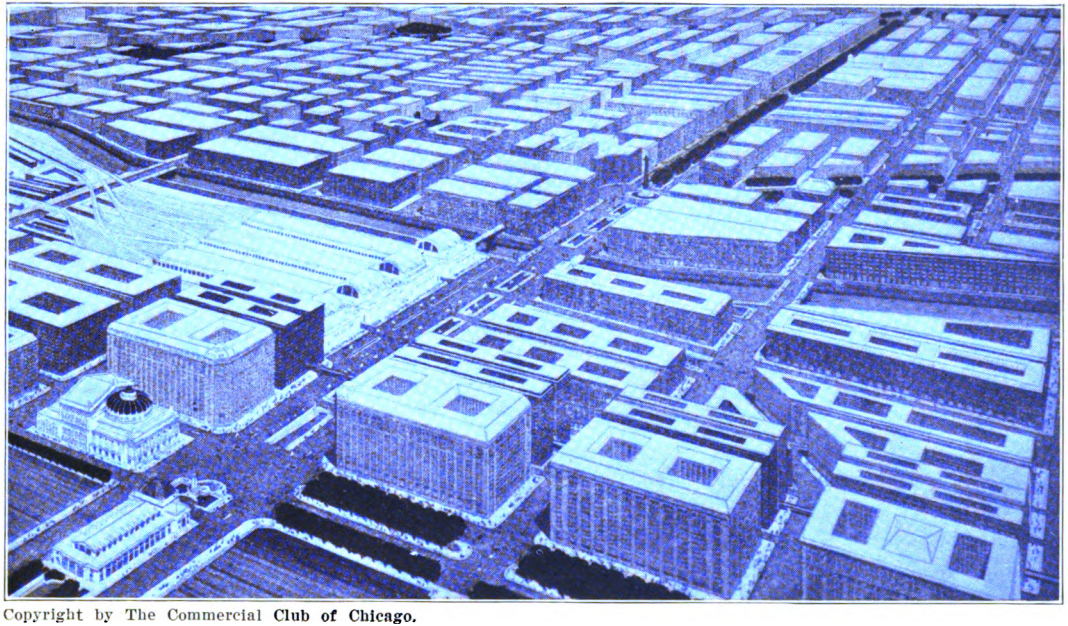

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ANOTHER VIEW OF THE GREAT CHICAGO PLAN

Showing Twelfth Street from Michigan Ave. with Proposed Railroad Stations Fronting on the South Side

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a magnificent civic center. In these centers are grouped most of the municipal and other public buildings. From them the great avenues of the city radiate. Not only are they breathing spaces in the heart of the city and beauty spots to gaze upon, but convenient groupings of public buildings and convenient in transacting public business. The adoption of city plans will go far in starting American cities along the road to scientific city building.

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SUPPLEMENTARY READING

CHAPTER IV

Municipal Functions

[1] **The Juvenile Court.**—Very decided improvements in the police magistracy are being made by the creation of separate courts for special classes of offenders. Long ago the attention of reformers was drawn to the anomaly of arraigning little children charged with petty offenses alongside hardened criminals at the bar of justice. It took many years of agitation, however, to secure the establishment of separate courts for the trial of juvenile offenders. The first children's court in the United States, according to official investigation of the Bureau of the Census, was established in Rochester, on August 23, 1895. Albany followed in 1897, Woonsocket (R. I.) in 1898, and Denver in 1899. At the present time all of the large cities have juvenile courts; Chicago (1899), New York (1902), Philadelphia (1903), St. Louis (1903), Cincinnati (1904), Seattle (1905).

The offenses triable in juvenile courts vary from city to city. In New York crimes of all kinds are included, except capital offenses. In St. Paul all violations of state laws and city ordinances by children are triable in the juvenile court. In Chicago, dependents and delinquents, and in Pittsburgh incorrigible delinquents are brought before the children's court. The maximum age of offenders triable in juvenile courts is about sixteen years. In Chicago it is seventeen years for boys and eighteen years for girls; in New York it is sixteen years for boys and girls alike; in Detroit it is sixteen years for boys and eighteen for girls.

The New York law provides that whenever a child is taken into custody it shall be the duty of the officer making the arrest to proceed with all convenient speed to the children's court if in session and if not in session, to the rooms of a duly incorporated

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society (the Gerry Society) for the prevention of cruelty to children. It was at first specifically declared to be unlawful for a police officer to take a juvenile offender to a police station; but this requirement was omitted in an amendment of 1911.

Experience shows that the judge in the children's court should be a man peculiarly qualified for the work, and should devote his entire attention to trying juvenile offenders. The law of 1910 reorganizing the lower courts of New York City, however, did not create a special children's magistracy, but provided that justices of the court of special sessions should be assigned from time to time by the chief justice to hear and dispose of cases involving the trial of children.—*Charles A. Beard, "American City Government," p. 179.*

[2] **Fire Losses and Fire Apparatus.**—A recent expert investigation shows that the actual fire loss, in one year, in the destruction of buildings and contents in the United States, was $215,000,000 or about eight times the per capita loss sustained by European countries from fire. It is estimated that in the period of thirty-six years, from 1875 to 1910, property to the amount of $5,120,000,000 was destroyed by fire in the United States.

This terrible annual loss in life and property is thus graphically portrayed by a fire insurance expert: "If the buildings consumed were placed on lots with sixty-five feet frontage they would line both sides of a street extending from New York City to Chicago; and if we reckon the killed and injured by fire, a person in journeying along this street of desolation would pass in every thousand feet a ruin from which an injured person was taken, while at every three-quarters of a mile he would encounter the charred remains of a person who had been burned to death. Words are unequal to the task of depicting the awful sorrow which follows in the pathway of fire or of properly characterizing the act of those who are even innocently or ignorantly responsible for the waste of life and property so frequently chronicled in the fire record of the United States."

To combat this dreadful enemy, American cities have the most highly organized and the best-equipped fire fighting systems to be found anywhere in the world.

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As in keeping with the advance of the country in mechanical inventions, the machines for fire fighting are being steadily improved. Collapsible ladders which can be raised to a great height are being introduced in cities having tall buildings. The motor fire engine is supplanting the fire horses; and on account of the terrific speed which can be developed by high-powered automobiles, the time consumed by a brigade in reaching a fire is incredibly shortened. New York City, for instance, is now revolutionizing the entire fire department by the introduction of motor engines. One of these machines, weighing nearly seven tons, was recently driven at a speed of thirty-five miles an hour and on reaching the place of trial threw an effective stream 462 feet into the air.—*Beard, op. cit., pp. 282, 284.*

[3] **Cincinnati's Municipal Lodging House.**—The Cincinnati Municipal Lodging House is regarded by many as one of the most complete places of its kind in the United States. The house was opened in January, 1912, and is under the control of the department of public safety. Work is required for lodging and meals, but no cash is paid to lodgers for work. Feeble-minded persons and those afflicted with contagious diseases are sent to the City Hospital.

Lodgers apply between five and nine p. m. At nine the doors are closed and no one is allowed to come in. When a man presents himself, his effects are deposited in an envelope for safe-keeping, and he is asked the following questions: His name; where born; his age; how long in the city; his occupation; the name of his last employer; whether married or single; if a foreigner, how long in the United States. He is then directed downstairs where he is given a good bowl of soup and three slices of bread. Then he takes off his clothes to prepare for his bath; his outer clothing is hung on a clothes hook; his underclothes are put into a mesh bag; his shoes and hat are numbered to correspond with a check which he is given to identify his clothes. The clothes are then hung on a rack in the sterilizer and subjected to a steam pressure of 260 degrees.

The man is taken to the bath room, where he is required to take a bath. Soap, brushes, and towels are provided. Should he

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not take a good bath he is sent back by the physician for an extra one. After the bath he is given a pair of socks to keep his feet clean in going to bed, and a clean garment to sleep in. He is then taken upstairs to the doctor, who examines every man stripped. Should he need medical attention, he is given it. No one is allowed to escape vaccination, if he does not show a good scar. He is then put into a clean bed.

At 5:30 a. m. the lodgers are awakened and sent downstairs to the basement, where their clothes are given to them, and a cup of coffee with three slices of bread, after which they are assigned to different jobs, such a sweeping, making beds, scrubbing, washing towels, socks, etc. If there are a sufficient number of men, some are sent to the woodyard and some are put to sweeping the streets in the vicinity of the lodging house. Good results have been obtained, which is ascribed to the kind of treatment given to the inmates.—*Bulletin of the St. Louis Public Library, July, 1912, p. 332.*

[4] **The Modern City Street.**—The streets of a modern city are far more than mere highways for surface use. Railway cars run above and below as well as on the surface; messages, light, heat, and power are sent through aerial or underground wires; pipes beneath the streets bring us water, gas, and steam; still other conduits remove liquid wastes from our dwelling and surface and subsoil water from our yards and streets. The space between the building lines, especially in the larger cities, bears an important relation to both air and light. And finally, not to make the list too long, well-planned streets afford a most excellent opportunity to relieve the monotony of brick, stone, and asphalt with the ever-changing beauty of trees, shrubs, and flowers.

The rapid growth in numbers and volume of street uses, and the tendency to do away with aerial construction as unsightly and dangerous, combine to increase the demands upon both the surface and underground ways of communication. These multiplying demands make it more and more imperative that street surfaces, and what we may call the underground furniture, be capacious, durable, readily maintained and repaired, and that

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there be as little interference as possible between the various functions of streets. Obviously there is a conflict between the surface and the sub-surface uses of streets unless access may be had to the underground furniture with but little disturbance to the pavement and the earth that supports it. This is possible only where a system of subways is employed. When subways are not feasible, the disturbance of streets may be lessened by systematically recording the location of all underground conduits. In many cities, not even this is done, and only after repeated experimental diggings can a pipe be located.

To provide ample accommodations for various forms of traffic, streets must be properly located and of suitable width, with easy grades and a surface well adapted for vehicles and pedestrians. Conditions affecting the public health must be given a most prominent place. In built-up areas it is often true that the location, grade, and width of streets cannot be altered except at great expense and inconvenience. The character of the surface is more fully within municipal control.—*M. N. Baker, "Municipal Engineering and Sanitation," p. 11.*

[5] **Conduits and Subways.**—The multiplicity of underground pipes is one of the chief causes of the rapid deterioration of street surfaces. A fine new pavement is scarcely more than thrown open to traffic when along comes a detachment of men with picks and shovels and digs a trench in it to repair some pipe or make a new water or gas connection. A pavement once torn up in this way can never be made perfect again, and often there is little attempt to replace it in even a tolerably good condition. And yet, year after year, a large proportion of the mileage of our city streets is ruthlessly torn up in just this way.

But this is not all. It is becoming more and more difficult to find a place for new conduits beneath the streets of our largest cities. The bursting of a water pipe may undermine and cause breaks in other pipes. Leaky gas mains often go undiscovered, and sometimes result in explosions which injure not only other underground construction, but may damage buildings and cause loss of life as well.

The pressure upon the space beneath street pavements has

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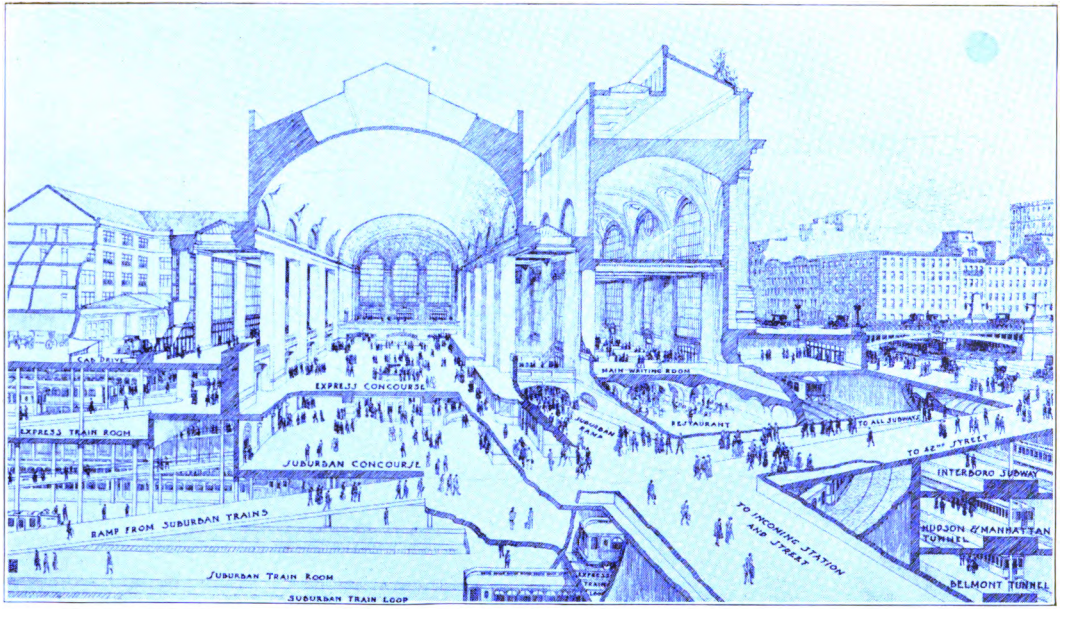

SECTIONAL VIEW GRAND CENTRAL TERMINAL, NEW YORK CITY

Showing the wonderfully complex use, above and below ground, of the streets of the modern city, necessitated by enormous traffic. Over twenty million people use this terminal yearly.

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been increased by the general demand for the abolition of unsightly and often dangerous overhead electric wires. This has led, in a number of American cities, to the practice of placing telephone, electric light, and other wires in underground ducts or conduits, often called electric subways. Manholes at frequent intervals give access to the conduits for repairs, or for drawing in additional wires, without tearing up the streets.

While electrical subways, once built, give rise to but little further disturbance of the street surface, they do add materially to the crowding and entanglement of conduits beneath the pavement. The obvious solution of the whole problem is to group both pipes and wires in a single large and readily accessible subterranean gallery or tunnel. This has been done to a limited extent in London, Nottingham, and St. Helens, England, in the great sewers of Paris, and in Milan, Italy. More has been accomplished in Paris and London than elsewhere. Such subways are generally large enough to contain many separate pipes and wires. Access is had through manholes, and ventilation is provided through the latter. All the underground furniture may be inspected and repaired with promptness and ease.—*Baker, op. cit., p. 25.*

[6] **Street Cleaning.**—The story of the Department of Street Cleaning should be frequently told citizens, so that when they criticize, as inevitably they will, they may criticize intelligently. We expect criticism, we want it, and we certainly get it. When one stops to consider that 6,500 men start out every morning on the big task of cleaning New York City's streets, each to do his individual share in cleaning and making them more sanitary, that the Department of Street Cleaning in New York is responsible for the cleaning of the surface of about 1,323 miles of streets and removing ashes, rubbish, and street sweepings from the entire Boroughs of the Bronx, Westchester, Riverdale, and other outlying towns in that neighborhood, the Borough of Manhattan, and all Brooklyn, Williamsburg, Brownsville, and Sea Gate, he may realize the vastness of the proposition. These forces are like nothing more nor less than doctors doing their share of keeping the death rate down. It might be interesting

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to the reader to know that the death rate in New York City during the past year was the lowest on record. It may be claimed with due modesty that the Department of Street Cleaning played no small part in producing such results.—*Baskerville, "Municipal Chemistry," p. 222.*

Street dirt may be gathered by either hand or machine brooms. Where the pavements are smooth, like asphalt, brick, and the best grades of stone blocks, machine sweeping may prove satisfactory, but with rough and uneven pavements hand sweeping is necessary, and even then thorough cleaning is difficult. Machine sweeping is done at night, when the streets are quite free from traffic, thus facilitating the work and lessening the annoyance to those using the streets. Sweeping machines should be preceded by light sprinkling, to lessen the dust. If the sprinkling is too heavy, mud is formed and the pavement is plastered by it, instead of being cleaned. Obviously, machine brooms cannot be used in wet weather.

Various attempts have been made to devise machines which would sweep up the dirt and load it into a vehicle, ready to be carted away. Some of these pick-up machines are of the pneumatic type — that is, suction is employed to lift the dirt into a receptacle attached to the machine. When pick-up machines are used, extra wagons must be in attendance to remove the dirt from the machines, since running the machines to the dump would be a loss of time. The ordinary street cleaning machines must be supplemented by hand labor or gutter cleaning machines to sweep the narrow strip of pavement along the curb and gutter. — *Baker, op. cit., p. 152.*

[7] **Water Filtration.**—To remove matter and bacteria to a sufficient extent to render polluted water safe, filtration is employed. If the organic matter is not accompanied by much suspended mineral matter, such as clay or silt, preliminary sedimentation will be unnecessary, but coagulation may be useful, or, indeed, may be required, if it is desired to filter the water very rapidly.

Where reliance is placed on slow sand filtration, artificial beds of sand, three to five feet deep, are provided, resting on six to

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twelve inches of gravel. At the bottom of the gravel, pipes with open joints are laid. The water to be filtered passes down through the sand, depositing its impurities on the surface of the bed and on each sand grain. It then goes through the gravel and into the collecting pipes. The deposit on the surface of the bed is fine grained and more or less sticky, thus acting as a strainer. Millions of bacteria on and in the bed attack the organic matter in the water and change it to nitrates, gradually exhausting the food supply of the bacteria. By a combination of straining and starvation, nearly all the bacteria are eliminated from the water before it leaves the filter. Of those remaining, it is believed that few are disease-producing. Good filters will remove from 98 to 99.5 per cent of bacteria, but as it is important that the final number be low, it is customary to fix a maximum permissible number for the effluent, rather than a percentage of removal, particularly when the bacterial content is high. The absolute bacterial limit will depend much upon conditions of both time and place ranging from 100 to 300 or even 500 per cubic centimeter. It is best to rely upon an expert to fix the limit to suit local conditions. Chemically the work of a filter bed may be judged by the degree of oxidation or nitrification which it effects. The limits here depend even more on local conditions than in the case of bacteria.

Where coagulants and a very high rate of filtration are employed, say 100,000,000 to 125,000,000 gallons per acre per day against 2,000,000 to 3,000,000 gallons for slow sand filtration, the process is known as mechanical filtration. Such filters have areas of a few square feet, rather than goodly fractions of an acre, and are confined in tanks of wood or steel. The coagulant and rapid filtration combine to foul the filtering material very rapidly. Cleansing is effected one or more times a day by reversing the flow of water through the filter, stirring up the filtering material by means of power driven rakes, or compressed air, and wasting the dirty water. The impurities penetrate deep into the filter, instead of lodging at or near the surface, as in the slow sand filter beds. The latter are cleansed by scraping off the thinnest possible layer, by means of special hoes or

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shovels, and removing it in wheelbarrows.. In the best modern practice the dirty sand is washed in a series of ejectors. The wash water carries the sand into one ejector trough after another until the sand is clean. The fouled water is wasted and the clean water is supplied at each ejector. The filter beds have to be scraped from once every few days to once a month. When the beds get too thin, the washed sand is replaced.

The amount of coagulant used in mechanical filtration ranges from a fraction of a grain upwards. The largest doses are generally required for water heavy in sediment, but great care must be taken to see that the raw water contains enough carbonates to combine with the alum, so that none of the coagulant will pass into the effluent without being decomposed — a wasteful process and one which is considered dangerous to health.— *Baker, op. cit., pp. 77-79.*

[8] **Sewage Disposal.**—The principal methods of artificial treatment of sewage in use at the present time are biological; that is, they depend on the action of living organisms, principally certain bacteria. As before stated, some diseases are caused by bacteria or germs, but all bacteria do not produce diseases; some are very useful. The various kinds of cheese, for example, are produced by cultivating the growth in milk of different kinds of bacteria, which by their action on the milk change its nature. Just so, in sewage treatment, the problem is to so arrange the conditions as to promote the development of the proper kinds of bacteria. For instance, some bacteria thrive only when deprived of air, as in a closed vault; these are called anaerobic. Others develop only where they can have air, and these are called aerobic. All sewage contains immense numbers of bacteria, and if they are given proper opportunity to work, they will reduce the impurities, which are largely organic, that is, composed of animal or vegetable matter, to harmless mineral matter.

The first action on the organic matter in sewage must be by the aerobic bacteria, because of the air and free oxygen dissolved in the sewage. By their action these bacteria soon use up the dissolved oxygen in the sewage and their action is there-

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fore slight at this stage of the purification, but is replaced by the action of the anaerobic bacteria for which the conditions are then suitable. The anaerobic bacteria have the power of liquifying the solid organic matter just as the rotten apple is liquified and runs away, and hence are sometimes called liquifying bacteria. This action is very important, for if it can be made thorough it will do away with the problem of handling the solid matter in the sewage. If the purification is to be carried farther, the sewage must be aerated in order to supply the oxygen required by the aerobic bacteria, which will again increase in numbers when the conditions are suitable for their development. These bacteria act on the matters dissolved in the water of the sewage, combining them with oxygen and producing stable mineral substances.

In addition to the bacteria, there is action by a class of substances called enzymes, which, though not living, are products of animal and vegetable life. Pepsin is a familiar example of an enzyme. Enzymes are formed by moulds, larger fungi, and by plants and animals as well as by bacteria.

Under some conditions, these products of the bacterial life promote the purification of the sewage, while at other times they hinder it.— *Geo. J. Davis, "Sewage Purification with Special Reference to Wisconsin Conditions," University of Wisconsin Bulletin, p. 17.*

[9] **Boston's Public Baths.**—Boston has undoubtedly done more than any other American city for the comfort and pleasure of its people. The southern division of Chicago under the supervision of the south park board may have surpassed Boston within the last few years, but Boston was a pioneer, and still maintains the leadership when it comes to the activity of the city government for the people of the whole community. During the year 1908 Boston maintained 6 gymnasia with baths, 5 of which were for both men and women; 4 all-the-year-round baths, with another under construction and 6 bathing beaches, 1 open air pool, 1 river bath and 11 floating bathhouses for summer use. The total number of baths given at the all-the-year-round public bathhouses and gymnasia during the year 1908 was

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776,281, while the attendance at the bathing beaches reached the two million mark in 1905. The city also maintains 7 public convenience stations in Boston Common and other locations. On January 31, 1909, there was outstanding a debt of $421,500 chargeable to bathhouse, gymnasia, etc. The current expenditures of the bath department during the preceding year amounted to $174,750.—*Delos F. Wilcox, "Great Cities in America," p. 372.*

[10] **Municipal Comfort Stations.**—Within the last two years New York City has built seven public comfort stations, three above ground and four below ground, at an average cost of $25,000 each. The underground station in City Hall Park was opened in October, 1898, the other seven in the early part of 1905, all upon ground owned by the city. The men's side of these stations are open from 6 A. M. to 12 P. M., and the women's side from 6 A. M. to 10 P. M. Three male and two female attendants are employed in each. They work in eight-hour shifts, and are paid, respectively, $2.50 and $2 per day each.

These stations were designed without heating facilities, but the error was soon discovered, and most of them have since been equipped with adequate heating arrangements.

Many of the New York stations are entirely too large for the present demands; a mistake which should, if possible, be guarded against in designing such structures. Some are built under ground which could have been equally well built above ground.

The station at Sheriff and Delaney streets is built under the approach to the Williamsburg bridge, and that at 125th street and Park avenue under the elevated railroad.

Wise as has been the beginning, it is obvious that eight stations cannot adequately serve over three millions of people.

At Cleveland, Ohio, there is an exceedingly interesting combination of trolley waiting-room and public comfort station, located upon Monument Square, a great trolley transfer point. This station was built and is maintained by the Park Department, and cost $10,000. It has a very neat, attractive appearance, being built of yellow brick with limestone trimmings, and having a gracefully curved roof with ornamental red tiling. The face of this building is close to the sidewalk, and easily accessible

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to the trolley cars as they pass in front of it. In the winter time the waiting-room is enclosed upon all sides, and well heated. In the summer time the front is removed, and the waiting-room becomes a cool, attractive resting-place. The public comfort station is below the ground level, and is approached by stairways from each end of the waiting-room. This station is open for twenty-four hours each day, and is cared for by three male and three female employees, working in eight-hour shifts. The annual expense of maintaining this station is about $4,500. Towels and soap are free. The average daily attendance is about 4,000, and is sometimes as high as 7,000. Upon the men's side are nine urinals, six closets and four wash-bowls; and upon the women's side, seven closets and four wash-bowls. It is said by the officials in charge of this station that it is so popular that many employees of near-by factories use the station after working hours, to clean up, in preference to using similar but less attractive facilities furnished by their employers.— *American Civic Association Leaflet, No. 14, 1907.*

[11] **Municipal Markets.**—In the United States the market system rests for the most part on an entirely different basis from that in all European countries. While municipal authorities generally have the power to establish markets, the monopoly privilege is not often found. There are frequently also market halls under private management.

The municipal markets in the United States are, however, neither few nor insignificant. The largest are those of New York City, which yield a gross revenue of nearly $300,000. Considering the size of the city, those of New Orleans are most important; the principal ones being leased for $186,000 a year, and an additional $40,000 which the city must use for repairs to the buildings. The municipality also operates directly four markets, which yield a revenue of $10,000 a year. In this instance the city possesses a market monopoly, and the few private enterprises are carried on under the right of reversion to the city. The Quincy market of Boston is valued at $1,250,000 and produces an annual revenue of $72,000, of which $60,000 is net

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profit. Baltimore has a revenue of $48,000 from markets and St. Louis of $28,000. The municipal market buildings of Pittsburgh are valued at $350,000; those of St. Paul at $250,000; and those of Philadelphia, Cincinnati, Nashville, Mobile, and Savannah at over $100,000 each. Three-fourths of the cities with 100,000 population have municipal markets, the exceptions being San Francisco, Minneapolis, Jersey City, Louisville, Rochester, and Providence. Chicago, Omaha and Albany have no market buildings, but have public market places. Of cities with from 25,000 to 100,000 population, about one-third have municipal markets, and in nearly every case this means the possession of a market hall, in which stalls are rented to the dealers.—*Milo R. Maltbie in "Municipal Affairs," Vol. II, p. 719.*

[12] **Municipal Pawn Shops in Germany.**—Pawn shops conducted by the municipalities are more frequent in Germany than in France, though not so general as in Belgium or Holland. But these municipal institutions do not always have full control of the business, for frequently there are also private pawn shops. The Berlin loan office is not a municipal institution but it is a branch of the Royal Prussian administration. So too, in the duchy of Brunswick, the ducal government operates public pawn shops not only in the city of Brunswick, but in five smaller cities. In other small duchies, such as Saxe-Coburg and Saxe-Weimar, the same rule holds. There are, however, seventy-six German cities with over 156,000 population with strictly municipal institutions. Even smaller towns have opened public pawn shops, Bavaria alone having nineteen in towns between 15,000. On the other hand, there are some cities of considerable importance which have as yet taken no action in this direction. Of the fifty-five cities with over 50,000 population, thirty-six have municipal loan houses; and in five others the municipality exercises a strict supervision of the private institutions; while in still others, as in Berlin and Brunswick, there are public institutions under state management. The most important places where there is no municipal or government loan houses are Magdeburg and Bremen.—*Maltbie, op. cit., p. 750.*

[13] **Municipal Savings Banks.**—Municipal establishments are

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THE MUNICIPAL DOCKS AT SOUTH FERRY, NEW YORK CITY.

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most numerous in the German states, where there are no postal savings banks. In Prussia, 804 cities and communes have municipal savings banks, while there are also 378 owned by the provincial authorities and 311 private institutions. The municipal establishments have in the aggregate over 4,000,000 depositors and $500,000,000 of deposits. Bavaria has 325 municipal savings banks to 75 in private hands. Baden has 123 municipal banks, and Hesse 43. Thus these four states together have 1,300 municipal institutions, and if the figures for the smaller commonwealths were at hand, they would increase the aggregate for all Germany to nearly 1,500. It is evident from these figures that this line of municipal activity has commended itself in Germany not simply to the large cities but also to a host of small towns, and in fact the list of municipal savings banks includes a goodly number of rural communes. Among the larger cities — those with over 50,000 population — out of 46 reporting on this subject in 1895, 38 had municipal savings banks. Of the six cities which rank first Hamburg alone is without a municipal establishment; and of the ten next in order there are only two exceptions — Frankfort-on-the-Main and Altona.— *Maltbie, op. cit., p. 752.*

[14] **New York's Municipal Docks.**—Ten million dollars seem an enormous sum for a municipality to expend for improving something over half a mile of water frontage, but this will hardly cover the amount which will have been paid out by the city of New York when, next month, she turns over as a Christmas present to the big steamship lines the magnificent steel-concrete docks which are now nearing completion in the Chelsea Section, lying along the North River from Washington Market, at Little Twelfth Street, to the railroad piers at Twenty-third Street. The enterprise will add to the source of revenue of the city the sum of $565,000 per annum — quite a tidy sum from one branch of a city department.

Standing pre-eminent among the commercial centers of the world, the city found itself in a quandary with the onrush of passengers and cargo from all over the civilized world, and its officials found it a stupendous task to care for this business, as well as to provide suitable accommodations for our for-

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eign travelers and the exporters of the nation. Ten or fifteen years back it became evident that something must be done to afford additional dockage facilities, and the advent of the huge ocean greyhounds brought the matter more forcibly to the attention of the city. As the municipality owns 90 per cent of the water front of the Island of Manhattan available for commercial purposes, it behooved its officials to put a portion of it in shape or compel the steamship companies to seek berths elsewhere.

It fell to the lot of the Department of Docks and Ferries to work out a solution of this problem. This department has shown its efficiency continuously since its organization in 1870 — it has built seawalls, constructed piers and docks, and has even operated ferries, but it had not yet attempted any task of such magnitude. The Commissioner and his engineers looked about for models, but nowhere found anything which suited exactly the ideals of the officials. Yet from one source and another details were gathered; some suggestions were approved, others rejected, and in the new structures they believe they have incorporated the best of anything that may be found in the details of all these, and better than may be found in many of them.

The most pretentious portions of the work are the steel sheds, whose massive proportions extend for half a mile along the waterfront and a sixth of a mile into the harbor, and rise to a height of 60 feet, and which are yet most pleasing from an architectural point of view.— *Municipal Journal and Engineer, Vol. 27, p. 657.*

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QUESTIONS FOR REVIEW. PART III

1. What has made the growth of cities possible? Why is Australia's population urban rather than rural? What have been the principal causes of city growth? Are they all operating now to make cities larger? Name some of the social consequences of the growth of cities. Some of the political consequences. Explain the legal position of the city. How are cities incorporated? Why should cities have Home Rule?

2. How did the English borough serve as a model for American city government? What changes were made? Why is the ward system of representation vicious? Why has the common council lost much of its power? Describe the procedure in passing an ordinance. How would you proceed to secure action by the council on a matter in which you were interested? What is meant by Commission Government? By the City Manager Plan? What are the advantages of these new forms of organization?

3. What are the principal functions of the mayor? In what ways can he influence legislation? Should he have the veto power? Compare the advantages of the board and the commissioner system of administration. Describe the preparation and passage of the budget. Why is a budget advisable? What are the sources of

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municipal revenues? How is a tax rate arrived at? Compare the organization of each of the principal administrative departments.

4. Distinguish between municipal and state functions. Is poor relief a state or municipal function? The maintenance of libraries? Cemeteries? Why should the city own and operate waterworks? How is water purified? Sewage? To what extent do cities maintain bathing facilities? Public convenience stations? Lodging houses? Municipal markets? What are the various means of disposing of garbage? Which is the best way? What is the necessity of a city plan? Discuss civic centers.

SUBJECTS FOR SPECIAL STUDY

1. Constitutional Municipal Home Rule, as presented by Goodnow, Wilcox, Parsons, and other writers on municipal government.

2. Municipal Ownership of Public Utilities. See the Report of the American Civic Federation of 1907.

3. "The Collection and Disposal of Municipal Waste," by Samuel F. Morse.

4. "Civics and Health," by William H. Allen.

5. Commission Government, the City Manager Plan, Uniform Accounting, Popular Control, and other subjects of organization and administration.

6. Medical Inspection, School Feeding, School Gardens, Public Playgrounds, Open Air Schools, and allied subjects.

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PART IV

State Government

CHAPTER V

ORIGIN AND CONSTITUTIONAL BASIS OF STATE GOVERNMENT

STATE government, like all other branches of government in America, has been a product of growth. It did not originate in any abstract theory of government, nor spring into being in full maturity as a result of the inventive genius of our forefathers and the conditions under which they found themselves; but grew, rather, out of the "actual experience gained by generation after generation of English colonists in managing their own political affairs." They planted in the New World the seeds of representative government brought from the Old, and during a hundred years of comparative self-government developed the principles upon which are based the commonwealth governments of today.[1] Even the Revolution did not break the continuity of institutional life. Some of the colonies did not adopt new constitutions when they became states, but continued under their old colonial charters. Rhode Island did not adopt a new state

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constitution until 1842. Thus he who would study present day state governments in their origin must go back and study the development of English institutions on American soil.

(1) Colonial Origins. All of the original thirteen states existed as British colonies before the Revolutionary War and each enjoyed an individual government. While these colonial governments varied in the different colonies, in general outline they presented striking similarities. The early English method of colonization was to grant charters to commercial companies similar to the famous East India Company. The London and the Plymouth Companies were the most notable companies to receive such charters and founded the colonies of Virginia and Plymouth. Later more direct methods of colonization were followed. At the time of the Declaration of Independence three distinct types of colonial government existed in the colonies — royal colonies, proprietary colonies, and corporate or republican colonies. In the royal colonies the governor and his council were appointed and commissioned by the crown. In the proprietary colonies the prerogatives of the crown were conferred on some favored individual or family, as William Penn and Lord Baltimore, and they governed the colony under the charter from the crown. But in both the royal and the proprietary colonies there were popular assemblies which exercised considerable control over the management of local affairs. New Hampshire,

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New York, New Jersey, Virginia, North and South Carolina, and Georgia were royal colonies, and Pennsylvania, Maryland, and Delaware were proprietary colonies. In the corporate colonies the people were incorporated under charters which gave them a large degree of independence. These colonies were virtually commonwealths and were little subjected to the sovereignty of England. They elected their governor and council or upper house as well as the lower house of their popular assembly. Connecticut and Rhode Island belonged to this type and at one time Massachusetts also, but its charter was so amended later as to make it resemble in some respects the royal type as well.[2]

In all of these colonies there were the three departments which characterize our state and national governments today — an executive, a legislature, and a judiciary.

The colonial governor was the chief executive officer of the colony. In the royal colonies and in Massachusetts he was appointed by the crown; in the proprietary colonies he was appointed by the proprietor; while in Connecticut and Rhode Island he was elected by the people. He was charged with the enforcement of the laws, was given the power of appointment, and was commander-in-chief of the colonial forces. He was the general representative of the king. In the royal and proprietary colonies the governor appointed the members of the upper house or council and had

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an absolute veto power over laws which he thought objectional. In the corporate colonies the governor did not enjoy many of the powers exercised by the governors of the other colonies, yet in all the colonies he exerted a great influence over colonial government, and the direction of colonial affairs. In the royal colonies in particular the governor was an unpopular official, and when those colonies came to be states and to draft new state constitutions, they took care to curtail his powers and to increase the powers of the popular assembly. In Rhode Island the governor was not given the veto until 1909.

In all the colonies except Pennsylvania the colonial legislature consisted of two houses, a council and a representative assembly. The council or upper house was appointed by the governor in all of the colonies except Massachusetts, Rhode Island, and Connecticut where it was elective. The council not only had the ordinary legislative powers, but it acted as a cabinet to the governor and was charged with many administrative duties performed today by various state officials. The representative assembly in all cases was elected by the people, although not under conditions of universal suffrage. Many of the English limitations were retained. For instance, in Virginia a voter had to be a freeholder of fifty acres of land without a house, or of twenty-five acres with one. In Massachusetts he had to own an estate worth at least forty shillings per year, while all the colonies imposed special qualifications for eligi-

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bility to membership in the legislature. At first, the assembly sat with the governor and council in joint session, but gradually it gained the right to sit apart, and became a separate and independent body. It voted separately on all legislation, could originate bills, and usually exerted a restraining influence on the governor and council. The constitutional history of the colonies is made up largely of contests between the governors and the assemblies, especially over questions of taxation and expenditures, and through their control of the purse strings the assembly finally secured a dominant control.

In addition to the executive and legislative departments, there was a judicial department. The colonial judiciary consisted of justice courts, presided over by the justices of the peace, the county courts, presided over by judges usually appointed by the governor, and a high court to which cases from the other courts could be appealed. From the decision of the high court an appeal could be made to the king in council in England. In most of the colonies, judges, including justices of the peace, were appointed by the governor, but in New Jersey the county judges were elected. In the royal colonies the high court was composed of the governor and council, but in Massachusetts the supreme court was composed of a chief justice and four associate justices appointed by the governor and council, and in Pennsylvania of a chief justice and three associate justices appointed by the governor.

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Thus there was in each colony a separate and fairly well developed government, modeled to a large extent after the government with which they had been familiar. It was like the "English system in miniature, the governor answering to the king, and the legislature, usually two-chambered, answering to parliament." When in 1776, the thirteen colonies threw off their allegiance to the British crown and declared themselves independent states, the colonial charter naturally became the state constitution.[3]. In most cases it was considerably re-modeled, but in some it remained for years unchanged. Massachusetts did not adopt a new constitution until 1780, Connecticut until 1818, and Rhode Island until 1842. The thirty-five states that have since been admitted to the Union have patterned their constitutions largely after the constitutions of the older states.

(2) State Constitutions. The fundamental law of each state is embodied in a written document called its constitution.[4] Unlike the constitutions of most European states which are usually granted by the sovereign or enacted by the highest legislative body, all American constitutions now in force have been framed by constituent representative assemblies, and in most cases adopted by the people before going into effect. The original thirteen states, as we have seen, had constitutions before the Federal constitution was framed, but the states that have since been admitted to the union have adopted their constitutions in much the same way.

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When a territory wishes to become a state, Congress passes an enabling act authorizing it to choose a convention to frame a constitution and this, when adopted by the people, becomes the fundamental law of the state. When an existing state wishes to revise its old constitution or adopt a new one, the legislature usually passes an act authorizing the calling of a constitutional convention, and prescribing its procedure. In order not to make the revision of the constitution too easy, it usually takes a two-thirds vote of both houses of the legislature to call such a convention. In spite of this, however, there are frequent constitutional revisions. When the necessity becomes urgent enough a constitutional convention can usually be secured. Some states provide for submitting the question of constitutional revision to the people at stated intervals. Constitutional revision is frequent in the South and West, but is rare in the East. Massachusetts is still under the same constitution, with a few amendments, that it adopted in 1780; while several other states have had as many as six constitutions during the last hundred years.

Prior to 1800, the ratification of constitutions by the people was the exception rather than the rule. Of twenty-five constitutions adopted during that time only three were submitted to the people for approval. But during recent years the practice of submitting them to a popular vote for approval has become almost universal. Mississippi, South Carolina, Louisiana, and

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Delaware are the only states that have recently put new constitutions into force without a popular referendum.

(3) Contents of State Constitutions. Early state constitutions, like the Federal constitution, were brief documents and contained merely a declaration of fundamental personal and political rights and an outline of the frame-work of government. They were free from detail and left all unimportant matters to the determination of the legislature. But failing confidence in legislative integrity and a desire to embody various safeguards in the constitution has greatly increased the length of such documents in recent years. A great many details and limitations are now found in state constitutions which of right do not belong there and which are not to be found in the constitutions of other countries. The constitution of Oklahoma contains over 50,000 words, and the constitutions of Virginia and Louisiana are nearly as long. They contain a great many provisions that in other states are covered by statutes.

The average constitution may be divided into five or possibly six parts: (1) the preamble; (2) the bill of rights; (3) the frame of government; (4) miscellaneous provisions; (5) provisions for amendment; and (6) the schedule. The preamble is merely an enacting clause declaring the establishment of the constitution. The bill of rights contains a declaration of those fundamental personal and political rights which all English speaking people have claimed since the granting of the

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Magna Charta.[5] They are designed to create a sphere of individual freedom free from the encroachment of all governmental authority, and to guarantee freedom of worship, freedom of speech and the press, trial by jury, habeas corpus, and similar inalienable rights and privileges. The frame of government outlines the organization of the departments of the government, legislative, executive, and judicial, fixes the suffrage, and determines the election, appointment, qualifications, and tenure of office of the principal governmental officers. Formerly this was the most bulky part of the constitution, but now it yields first place to the miscellaneous provisions. All provisions not belonging in some other part of the constitution find a place in this division. The miscellaneous provisions include those dealing with education, the militia, taxation and revenue, public debts, prisons, asylums and other state institutions, the regulation of railroads, direct legislation, such as the initiative, referendum, and recall, municipal corporations, internal improvements, limitations on the powers of the legislature, and many other provisions of both a political and non-political nature. Each constitution determines the manner in which it can be amended. The schedule is of temporary application and provides the manner of submitting the constitution to the vote of the people and the date of its taking effect, and arranging for the transition from the old order to the new. In one sense the schedule is not a part of the constitution.

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(4) Constitutional Amendments. The first state constitutions did not contain provisions for amendment, but changing social, economic and political conditions have made constitutional amendments necessary. All modern constitutions now contain such provisions. The most common method is for the legislature to prepare and pass the amendment and then submit it to a popular vote for approval. Most constitutions require an unusually large vote in the legislature to submit an amendment, usually a two-thirds or three-fourths vote. Some states, for instance, Wisconsin, require an amendment to be passed by two successive legislatures and then submitted to a popular vote for approval before it can become effective.[6] The legislature in most states may also call a convention for the purpose of framing a constitutional amendment, which may then be submitted to the people. New constitutions are invariably framed in this way. Oregon in 1902 provided for constitutional amendments by popular initiative. According to this method the people may themselves frame the amendment and submit it by petition to a vote of the people, and if adopted by a majority vote at the election it becomes effective without further legislative action.

Although all of these methods seem cumbersome, a great many amendments to state constitutions have been passed. In the ten years from 1894 to 1904, 412 amendments to state constitutions were submitted and 230 were ratified. California during that time pro-

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posed 38 and ratified 20; while Louisiana proposed 22 and ratified 15.

(5) The States and the Union. The relation between the states and the union is determined by the federal constitution and not by the state constitutions. Before a territory can be admitted to the union as a new state it must fulfil the conditions necessary to such admission.[7] Congress may impose conditions which the state constitution must fulfil, and may refuse to admit the territory until its constitution fulfils the conditions imposed. This has happened several times, as in the cases of Missouri, Kansas, and Utah, where admission was delayed because congress disliked the proposed constitutions. Recently President Taft vetoed the first Arizona statehood bill because the proposed constitution contained provisions for the recall of judges. But once states are admitted, they stand on a basis of constitutional equality with all the other states of the union.

But although congress is given the power to admit states and to refuse admission until the proposed constitution is satisfactory, it cannot itself amend the constitution or modify it in any way. This must be done by the people themselves, and the authority of the constitution is derived from its acceptance by the people of the state and not by congress. The enactment of a state constitution is therefore an exercise of direct popular sovereignty and is the supreme law of

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the state within the limitations imposed by the federal constitution.

(6) Rights as Members of the Union. All states as members of the union have certain rights and privileges which are guaranteed to them by the federal constitution, and of which they cannot be deprived without their consent.

It is made a duty of the United States by the federal constitution to guarantee to each state a republican form of government. By a republican form of government is meant a government by the representatives of the people as contrasted with hereditary governments or governments monarchical in form. Rival governments have sometimes been set up in various states, and in such cases it is the duty of the federal government to decide which is the legal government and the one entitled to the guarantee. During the Reconstruction period, federal troops were repeatedly called upon to put down a rival government. But Professor Hart has aptly observed that this guarantee is not effective against bosses who get actual control of the government, because they are not hereditary but keep up the forms of elections.

Another guarantee is that of territorial integrity. It is the duty of the national government to protect the states against invasion. No state can be divided without its consent. Every state may call on the federal government for assistance to suppress domestic disturbances. But the federal government may not

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interfere in internal state affairs unless requested to do so by the legislature or the governor, except when domestic violence obstructs some federal function. On several occasions, when the existing state governments have found themselves unable to maintain order, the federal troops have been used to suppress riots. A notable instance was the Goldfield miners' riot in Nebraska in 1907. In 1894, during the Chicago strike riots, President Cleveland sent federal troops to that city in spite of the protests of the governor of the state, but it was on the ground that the strikers were interfering with the United States mail, and the conduct of interstate commerce, and were disregarding the writs and processes of the federal courts. The president was criticized for his action but was undoubtedly justified.

Other rights are the right to participate in the election of president, representation in the house, and equal representation in the senate. The constitution guarantees to each state that it shall not be deprived of its equal representation in the United States senate without its own consent. The states have also at different times received considerable shares in the distribution of public moneys and lands.

(7) State Obligations. On the other hand the states are under certain obligations to the union and to each other.[8] Full faith and credit must be given to the public acts, records, and judicial proceedings of other states. This does not mean that the acts of one

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state shall be binding on the authorities of another state, but that the records and processes of one state shall be recognized in all other states. Thus a marriage legally consummated in one state must be recognized in other states, or a will or deed recorded in one state must be recognized in other states. But the decisions of the courts of one state are not binding on the courts of another state, although as a rule courts consult the decisions of other courts for precedents and enlightenment.

It is the duty of each state to surrender fugitives from justice from other states. When the governor of one state requests the return of an offender that has fled to another state, it becomes the duty of the governor of the state to which the offender has fled to return him for trial in the state from which he fled. There is no way, however, to compel compliance with this request and with the constitutional inhibition, and governors have sometimes refused to comply, especially when they have had reason to believe that the offender would not receive a fair trial, or that the act charged did not constitute a crime under the laws of that state. A great many troubles arose in this respect in connection with escaped slaves.

Another obligation upon the individual states is imposed by the clause of the constitution which requires that "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." No state can discriminate against the citizens

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of other states by interfering with their civil rights. Each state should act with courtesy and consideration toward sister states. Finally all states are under an implied obligation to perform all their functions towards the federal government, to elect senators and representatives in congress, to enforce the constitution and laws, and to assist in the maintenance of an "indestructible union of indestructible states."

(8) State Powers. The legal position of the several states and their relation to the nation as well as the division of powers between the states and the nation has already been discussed in the chapter dealing with the American Constitutional System in the preceding volume. The constitutional limitations imposed upon the states by the federal constitution will be discussed in the following chapter in connection with the powers of the state legislature, where such a discussion rightfully belongs. It only remains to be noted here that the states, within their respective fields, are sovereign commonwealths.[9] Their authority is supreme within the limits fixed by the federal constitution. Aside from the restrictions laid down by the federal constitution and inserted by the people in the state constitution, the powers of the state through its legally constituted agencies is unlimited. The state can pass any act on any subject unless it is expressly or impliedly forbidden to do so by the federal or state constitution. That is to say it is a government of reserved and not of delegated powers.

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SUPPLEMENTARY READING

CHAPTER V

Origin and Constitutional Basis of State Government

[1] **Importance of State Government.**— In size and importance the states differ widely; the largest, Texas, has an area of 265,780 square miles; the smallest, Rhode Island, only 1,250 square miles; the most populous state, New York, has 7,300,000 people; the least populous, Nevada, has 42,000 inhabitants; the Massachusetts population is 350 to a square mile; in Wyoming it is 1 to a square mile. Texas is larger than European France; New York has more people than Belgium and Holland together; and several other states are large and populous enough to be a great country in themselves. Many of the states of the Union are made up of different and sometimes hostile sections; Illinois is divided into a wheat belt, a corn belt, and the city of Chicago. In such states few people are widely known throughout the state, and it is therefore difficult for voters to judge of the quality of candidates.— *A. B. Hart, "Actual Government," p. 116.*

This is the part of the American political system which has received least attention both from foreign and from native writers. Finding in the Federal president, cabinet, and Congress a government superficially resembling those of their own countries, and seeing the Federal authority alone active in international relations, Europeans have forgotten and practically ignored the State Governments to which their own experience supplies few parallels, and on whose workings the intelligence published on their side of the ocean seldom throws light. Even the European traveller who makes the six days' run across the American continent, from New York via Philadelphia and Chicago to San Francisco, though he passes in his journey of 3,000 miles over the

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territories of eleven self-governing commonwealths, hardly notices the fact. He uses one coinage and one postoffice; he is stopped by no custom houses; he sees no officials in a State livery; he thinks no more of the difference of jurisdictions than the passenger from London to Liverpool does of the counties traversed by the line of the North-Western Railway.

An American may, through a long life, never be reminded of the Federal Government, except when he votes at presidential and congressional elections, buys a package of tobacco bearing the government stamp, lodges a complaint against the postoffice, and opens his trunks for a custom-house officer on the pier at New York when he returns from a tour in Europe. His direct taxes are paid to officials acting under State laws. The State, or local authority constituted by State statutes, registers his birth, appoints his guardian, pays for his schooling, gives him a share in the estate of his father deceased, licenses him when he enters a trade (if it be one needing a license), marries him, divorces him, entertains civil actions against him, declares him a bankrupt, hangs him for murder. The police that guard his house, the local boards which look after the poor, control highways, impose water rates, manage schools — all these derive their legal powers from his State alone. Looking at this immense compass of State functions, Jefferson would seem to have been not far wrong when he said that the Federal government was nothing more than the American department of foreign affairs. But although the National government touches the direct interests of the citizen less than does the State government, it touches his sentiment more. Hence the strength of his attachment to the former and his interest in it must not be measured by the frequency of his dealings with it. In the partitionment of government functions between state and nation, the State gets the most but the nation the highest, so the balance between the two is preserved.— *James Bryce, "The American Commonwealth," pp. 411, 425.*

[2] **Massachusetts' Colonial Government.**— The government of Massachusetts is descended from the Dorchester Company formed in England in 1632, for the ostensible purpose of trading in furs and timber and catching fish on the shores of Massachusetts Bay. After a disastrous beginning this company was dis-

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solved, but only to be immediately reorganized on a greater scale. In 1628 a grant of the land between the Charles and Merrimack rivers was obtained from the Plymouth Company; and in 1629 a charter was obtained from Charles I. So many men from the east of England had joined in the enterprise that it could no longer be fitly called a Dorchester Company. The new name was significantly taken from the New World. The charter created a corporation under the style of the Governor and Company of Massachusetts Bay in New England. The freemen of the Company were to hold a meeting four times a year; and they were empowered to choose a governor, a deputy governor, and a council of eighteen assistants, who were to hold their meetings each month. They could administer oaths of supremacy and allegiance, raise troops for the defense of their possessions, admit new associates into the Company, and make regulations for the management of their business, with the vague and weak proviso that in order to be valid their enactment must in no wise contravene the laws of England. Nothing was said as to the place where the Company should hold its meetings, and accordingly after a few months the Company transferred itself and its charter to New England, in order that it might carry out its intentions with as little interference as possible on the part of the crown.

Whether this transfer of the charter was legally justifiable or not is a question which has been much debated, but with which we need not here vex ourselves. The lawyers of the Company were shrewd enough to know that a loosely-drawn instrument may be made to admit of great liberty of action. Under the guise of a mere trading corporation the Puritan leaders deliberately intended to found a civil commonwealth in accordance with their own theories of government.

After their arrival in Massachusetts, their numbers increased so rapidly that it became impossible to have a primary assembly of all the freemen, and so a representative assembly was devised after the model of the Old English county court. The representatives sat for townships, and were called deputies. At first they sat in the same chamber with the assistants, but in 1644 the legislative body was divided into two chambers the deputies forming the lower house, while the upper was composed of the assistants,

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who were sometimes called magistrates. In elections the candidates for the upper house were put in nomination by the General Court and voted on by the freemen. In general the assistants represented the common or central power of the colony, while the deputies represented the interests of popular self-government. The former was comparatively an aristocratic and the latter a democratic body, and there were frequent disputes between the two.

It is worthy of note that the governing body thus constituted was at once a legislative and a judicial body, like the English county court which served as its model. Inferior courts were organized at an early date in Massachusetts, but the highest judicial tribunal was the legislature, which was known as the General Court. It still bears this name to-day, though it long ago ceased to exercise judicial functions.

Now as the freemen of Massachusetts directly chose their governor and deputy-governor, as well as their chamber of deputies, and also took part in choosing their council of assistants, their government was virtually that of an independent republic. The crown could interpose no effective check upon its proceedings except by threatening to annul its charter and send over a viceroy who might be backed up, if need be, by military force. Such threats were sometimes openly made, but often hinted at. They served to make the Massachusetts government somewhat wary and circumspect, but they did not prevent it from pursuing a very independent policy in many respects, as when, for example, it persisted in allowing none but members of the Congregational Church to vote. This measure, by which it was intended to preserve the Puritan policy unchanged, was extremely distasteful to the British government. At length in 1684 the Massachusetts charter was annulled, an attempt was made to suppress town-meetings, and the colony was placed under a military viceroy, Sir Edmund Andros. After a brief period of despotic rule, the Revolution in England worked a change. In 1692 Massachusetts received a new charter, quite different from the old one. The people were allowed to elect representatives to the General Court, as before, but the governor and lieutenant-governor, were appointed by the crown, and all acts of the legislature were to

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be sent to England for royal approval. The general government of Massachusetts was thus, except for its possessions of a charter, made similar to that of Virginia.—*John Fiske, "Civil Government in the United States," pp. 146-149.*

[3] **Causes of the Separaton.**—American government did not originate in any abstract theories about liberty and equality, but in the actual experience gained by generation after generation of English colonists, in managing their own political affairs. The Revolution did not make a breach in the continuity of their institutional life. It was not a social cataclysm, the overthrow of a dominant class, the establishment of a new estate in power. It was rather an expansion of the energy of the ruling agricultural and commercial classes, that burst asunder the bonds with which the competing interests in England sought to restrain their growing enterprise. American shipwrights could build vessels as fleet and strong as any that sailed the seas, and they were determined to conquer by main strength a free place in the world's market. American merchants were as ingenious as those who made England the nation of shopkeepers, and they could ill brook the restraints which condemned them to buy important staples in the marts of Great Britain. America was rich in timber, raw materials and mineral resources, and American manufacturers chafed under laws compelling consumers to look beyond the seas for commodities which might well have been made in New England or Pennsylvania. It was discontent with economic restrictions, not with their fundamental political institutions, which nerved the Revolutionists to the great task of driving out King George's governors, councillors, judges, revenue-officers, and soldiers. The American Revolution, therefore, was not the destruction of an old regime, although it made the way for institutional results which its authors did not contemplate; and it was not motived by the levelling doctrines with which the French middle class undermined the bulwarks of feudalism.—*Charles A. Beard, "American Government and Politics," p. 1.*

[4] **State Constitutions.**—A State Constitution is not only independent of the central government, it is also the fundamental organic law of the state itself. The State exists as a commonwealth by virtue of its Constitution, and all the State authorities,

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legislative, executive, and judicial, are the creatures of, and subject to, the State Constitution. Just as the President and Congress are placed beneath the Federal Constitution, so the Governor and Houses of a State are subject to its Constitution, and any act of theirs done either in contravention of its provisions, or in excess of the powers it confers on them, is absolutely void. All that has been said in preceding chapters regarding the functions of the courts of law where an Act of Congress is alleged to be inconsistent with the Federal Constitution, applies equally where a statute passed by a State legislature is alleged to transgress the Constitution of the State, and of course such validity may be contested in any court, whether a State court or a Federal court, because the question is an ordinary question of law, and is to be solved by determining whether or not a law of inferior authority is inconsistent with the law of superior authority. Whenever in any legal proceeding before any tribunal, either party relies on a State statute, and the other party alleges that this statute is *ultra vires* of the State legislature, and therefore void, the tribunal must determine the question just as it would determine whether a by-law made by a municipal council or a railway company was in excess of the law-making power which the municipality or the company had received from the higher authority which incorporated it and gave it such legislative power as it possesses. But although Federal courts are fully competent to entertain a question arising on the construction of a State Constitution, their practice is to follow the precedent set by any decision of a court of the State in question, just as they would follow the decision of a French court in determining a point of French law. Each State must be assumed to know its own law better than a stranger can; and the supreme court of a State is held to be the authorized exponent of the mind of the people who enacted its Constitution.

A State Constitution is really nothing but a law made directly by the people voting at the polls upon a draft submitted to them. The people when they so vote act as a primary and constituent assembly, just as if they were all summoned to meet in one place like the folkmoots of our Teutonic forefathers. It is only their numbers that prevent them from so meeting in one place, and

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oblige the vote to be taken at a variety of polling places. Hence the enactment of a Constitution is an exercise of direct popular sovereignty to which we find few parallels in modern Europe, though it was familiar enough to the republics of antiquity, and has lasted till now in some of the cantons of Switzerland.—*Bryce, op. cit., p. 435.*

[5] **The Bill of Rights.**— Examining these bills of rights, we find that they all contain declarations in favor of freedom of religious worship, freedom of assembly, freedom of speech and of the press, and most of them forbid the establishment of a state church or the appropriation of money for the establishment or support of any religious denomination. Most of them contain declarations providing for trial by jury in criminal cases, indictments by grand jury, the privilege of the writ of habeas corpus, the right of the accused to a speedy and public trial; a declaration of the right of citizens to bear arms; the prohibition of excessive bail, cruel and unusual punishments, general search warrants, and imprisonment for debt; the prohibition of titles of nobility, ex post facto laws, and bills of attainder; and provisions forbidding the taking of private property except for public purposes and then only when just compensation is made. Many of them contain philosophical enunciations of political doctrines such as the assertion that all governments originate with the people, and are instituted solely for their good; that all men are equal; that all power is inherent in the people; and that the people have at all times the right to alter, reform, or abolish their government. Some of the newer constitutions declare that monopolies and perpetuities are contrary to the principles of free government; that every citizen shall be free to obtain employment wherever possible; that a long lease of office is dangerous to the liberties of the people; that aliens shall have the same rights of property as citizens; and so on.

The real importance of the bill of rights, now that executive tyranny is a thing of the past, is not very great, but they are nevertheless interesting as formulations of American ideas of government and liberty.—*J. W. Garner, "Government in the United States," p. 68.*

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[6] **The Constitutional Referendum.**— Mr. Samuel E. Moffett, after discussing the constitutional referendum in California from 1884 to 1896, is much more enthusiastic in his conclusions: He says: "The suspicious vigilance of the people never tolerates anything that appears to cover a 'job'. Repeated efforts have been made to increase the pay and privileges of members of the legislature and other public servants, but always without success. The Southern Pacific Company, which always controls the legislature when it seems to be worth while, undertook in 1885 to secure a change in the methods of taxation, by which it would be taxed on its income instead of on its property. There was no trouble in getting a two-thirds vote of each house of the legislature in favor of the necessary amendment; but when the measure came before the people, only 9,992 citizens, or just about the number of the employees of the corporation, voted in its favor, while 123,173 voted against it. . . . Impatient reformers become disheartened because everything is not accomplished at once, but no general election passes, without the correction of some abuse in government or the achievement of some positive advance. When the harness chafes long enough at any particular point to make the annoyance seriously felt, the people alter it until it is comfortable; and as no good piece of work of this sort is ever undone, the ultimate achievement of a perfect fit is only a question of time."

Governor Hughes in his annual message to the legislature of New York on January 5, 1910, said: "Our experience at the last election with regard to the constitutional amendments submitted for adoption shows a lamentable lack of sense of responsibility on the part of our citizens with respect to changes in the fundamental law." A somewhat similar statement was made by Governor Gage of California in his message to the legislature of that state in 1903. "Constitutional amendments are easily passed at each session of the legislature, for, unlike laws, the governor has neither the power of approval or disapproval. When passed by resolution of the senate and assembly and submitted to the people, comparatively few voters really understand the character and purpose of these amendments, when appearing by title and number on the ballot; hence, as a rule, the electors vote on them in a

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very perfunctory manner." The supreme court of Colorado in People v. Sours said: "It is hard to account for the apparent indifference of the people on the occasion of submission to them of changes in their organic law. The indifference which prevails in Colorado prevails in other states, and it rarely occurs that a proposed amendment to the constitution receives the attention of more than one-half of those who vote for candidates for office." Similar statements may be made with reference to almost all of the states in which frequent use is made of the amending procedure.— *W. I. Dodd, "The Revision and Amendment of State Constitutions," pp. 286, 287.*

[7] **Admission of New States.**— The federal Constitution contains no details as to the way in which a new state may be admitted to the Union. It simply provides that new states may be admitted by Congress, and that no new state shall be formed out of another state or by the junction of two or more parts of different states without the consent of the legislatures concerned and Congress as well. A variety of methods have been employed in the admission of new states. Texas, for example, was admitted to the Union in 1845 as an independent republic by resolution of Congress; and California never went through the territorial stage. The inhabitants of that region shortly after the cession from Mexico drew up a constitution, demanded admission to the Union, and Congress yielded.

The only constitutional question of any importance which has arisen in connection with the admission of new states is whether Congress has the power to impose on a commonwealth coming into the Union any limitations in addition to those laid down in the federal constitution. It is the theory that all the states in the Union are equal in rights and privileges. The famous Northwest Ordinance of 1787, continued by Congress in 1789, declared that the new states created in that region should be admitted "on an equal footing with the original states in all respects whatever." On the admission of Ohio in 1802, however, Congress forced that state to agree not to tax for a period of five years any public lands sold within its borders by the United States. The enabling act for Nevada, passed in 1864, while declaring that the state should be admitted into the Union "upon an equal footing with

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the original states in all respects whatsoever," specifically required that its constitution should not be repugnant to the principles of the Declaration of Independence, that perfect religious toleration should be secured, and that the land belonging to non-resident citizens of the United States should not be taxed higher than the lands of residents.

The Supreme Court has declared, in a case involving limitations on Illinois, that "whatever the limitation upon her powers as a government whilst in a territorial condition, whether from the Ordinance of 1787, or the legislation of Congress, it ceased to have any operative force except as voluntarily adopted by her after she became a state of the Union. On her admission she at once became entitled to and possessed of all the rights of dominion and sovereignty which belonged to the original states. She was admitted and could be admitted only on the same footing with them."— *Beard, op. cit., p. 443.*

[8] **State Obligations.**— The most important duty of the state is to remain in the Union. Long before the Civil War, the so-called "doctrine of state rights" was worked out to its logical consequence,— that the sovereign rights of the state have never been surrendered, and may legally be protected by forcible withdrawal from the Union. The basis of state rights and secession is the same,— namely, the assumption that the states are and always have been sovereign, independent, and free to dissolve a voluntary union.

To settle a question of that nature on theoretical ground is difficult; but in practice no state in the Union has ever been sovereign, except Texas. No one of the thirteen original states ever made a treaty for itself, or a foreign war on its own account; throughout the Revolution all the states acknowledged a responsibility for the common national funded debt and paper money; they all united in making a national army and navy, and in appointing national officers to command; during the weak Confederation the states admitted the sole authority of Congress to negotiate treaties, to coin money, and to do many other important acts. Even during the secession era of 1861-1865, no one of the seceding states ever really acted independently: at the earliest moment they went into a confederation which directed

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their joint affairs during the war. In the opinion of the Supreme Court of the United States in passing on the Reconstruction acts, no one of the states was ever outside the territory or jurisdiction of the federal government after admission within the Union. Chief Justice Chase called it "an indestructible union, composed of indestructible states."

Practically, the result of the Civil War was to make it plain that a large proportion of the American people disbelieved the doctrine of state sovereignty, and that any body of states which in the future may attempt to assert that doctrine by actual secession will have to fight the rest of the states. Henceforth nobody can for a moment suppose that there can be such a thing as peaceful secession. Yet the states do retain a large number of absolute and undoubted rights. Consolidation of the Union would be almost as great a misfortune as disunion.—*Hart, op. cit., p. 123.*

[9] **Scope of State Powers.**—A moment's thought suffices to reveal how very great a field of activity, how preponderant a part remains under our system to the states. The powers of the federal government seem great by enumeration. Besides being intrinsically powers of the greatest importance, they are made the more imposing in the Constitution by the fact of their being set forth in an exhaustive list. The *residuum* of powers that remains to the states, consisting as it does of unenumerated items, is vague, and because vague seems unimportant by comparison. A moment's examination of this *residuum,* however, a moment's consideration of its contents, puts a very different face on the matter. It is worth while for the sake of an adequate understanding of the real division of powers under our government to give to the powers remaining with the states something like the same setting forth that is given to those granted to the Union.

All the civil and religious rights of our citizens depend upon state legislation; the education of the people is in the care of the states; with them rests the regulation of the suffrage; they prescribe the rules of marriage, and the legal relations of husband and wife, of parent and child; they determine the powers of masters over servants and the whole law of principal and agent, which is so vital a matter in all business transactions; they regulate partnership, debt and credit, and insurance; they con-

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stitute all corporations, both private and municipal, except such as specially fulfill the financial or other specific functions of the federal government; they control the possession, distribution, and use of property, the exercise of trades, and all contract relations; and they formulate and administer all criminal law, except only that which concerns crimes committed against the United States, on the high seas, or against the law of nations. Space would fail in which to enumerate the particular items of this vast range of power; to detail its parts would be to catalogue all social and business relationships, to set forth all the foundations of law and order.— *Woodrow Wilson, "The State," p. 471, 473.*

A striking illustration of the preponderant part played by state law under our system is supplied in the surprising fact that only one out of the dozen greatest subjects of legislation which have engaged the public mind in England during the present century would have come within the powers of the federal government under the Constitution as it stood before the war, only two under the Constitution as it stands since the addition of the war amendments. I suppose that I am justified in singling out as these twelve greatest subjects of legislation the following: Catholic emancipation, parliamentary reform, the abolition of slavery, the amendment of the poor-laws, the reform of municipal corporations, the repeal of the corn laws, the admission of the Jews to Parliament, the disestablishment of the Irish church, the alteration of the Irish land laws, the establishment of national education, the introduction of the ballot, and the reform of the criminal law. Of these every one except the corn laws and the abolition of slavery would have been under our system, so far as they could be dealt with at all, subjects for state regulation entirely; and it was only by constitutional amendment made in recognition of the accomplished facts of the war that slavery, which was formerly a question reserved for state action, and for state action alone, was brought within the field of the federal authority.— *Woodrow Wilson, "The State," p. 473.*

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CHAPTER VI

THE ORGANIZATION OF STATE GOVERNMENT

THE organization of state government in general is the same in every state. It consists of three separate and theoretically independent departments, the executive, legislative, and judicial, each of which is supposed to act as a check upon the others, thereby guaranteeing to the citizens freedom from tyranny and oppression. As a matter of fact, the departments never have been entirely independent of each other, being bound together by party ties and overlapping in function; but the freedom of the American people has never been seriously threatened by this shortcoming. The kind of protection needed having changed from protection against a tyrannical government to governmental protection against industrial combinations which threaten the economic freedom of the people, this departmental independence has turned out to be too effective in tying the hands of the government. What is needed now is more opportunity for action, rather than more effective checks and balances, more coöperation between the branches of government.

But although the theory upon which our state governments were founded has long since been discarded,

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and the old theory of the separation of powers has given way to a theory of official responsibility, the actual organization of the machinery has been modified but little. The organization of each of these three departments will be noted in turn.

I. The State Executive

In all states there is a chief executive officer called the governor, who in all states except Mississippi is elected by popular vote. To be eligible to the office of governor, most states require that the candidate be at least thirty years of age, a citizen of the United States, and a resident of the state for a certain length of time, usually five years. In about half of the states he is elected for a term of four years, and in most other states for a term of two years. In New Jersey, however, the term is three years, and in Massachusetts and Rhode Island, one year. The present tendency is favorable to the longer term, and even in those states having a short term it is the practice to reëlect the incumbent to a second term. In a few states reëlection is forbidden by the constitution, the fear being that a governor eligible to reëlection might be able to build up a political machine and thereby perpetuate himself in office. The salary of the governor ranges from $2,500 to $10,000 per year, the average salary being $5,000. New York, New Jersey, Ohio, Pennsylvania, and California pay $10,000, and Illinois pays $12,000. In addition to the annual salary many states provide

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and maintain an executive mansion for the governor, and some also provide a contingent expense fund to defray his expenses incurred in the discharge of public duty.

The powers and duties of the governor are varied, but the most important are those connected with administration and legislation. Those connected with the administrative system of the state can be more conveniently discussed in the following chapter on State Administration. Those connected with legislation are of three kinds.

(1) Power to Call Extra Sessions. Practically all states give the governor the power to convene the legislature in extraordinary session. This power is frequently very effective to secure specific legislation. It is used to secure the enactment of legislation promised in the party platform but not redeemed during the regular session, or to enact laws upon special subjects, or to meet great emergencies. Thus the flood at Galveston and the earthquake at San Francisco were occasions for special sessions of the legislature. One of the most spectacular special sessions of the last few years was that called by Governor Hughes of New York in 1908 to pass a law against race-track gambling, which the legislature had promised but failed to enact during the regular session. As a result of the prestige of the governor and the close scrutiny of an intensely interested public, the recalcitric legislature was compelled to pass the desired legislation. As a rule, only

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those subjects which are mentioned in the governor's call can be acted upon at the special session. This prevents the legislature from wasting its time on measures not needed, and by focusing public attention upon the purpose for which the session was called, acts as a club over the heads of the legislators. Such a power in the hands of a strong executive is a very effective weapon.

(2) The Governor's Message. It is a duty of the governor at the beginning of each session to inform the legislature upon the condition of the commonwealth and to make recommendations in regard to needed legislation. As the governor of the state is regarded as the leader of the dominant political party in the state, his message is usually looked upon as the legislative program for the session. "This right," as has been pointed out, "like that enjoyed by the president, may become a powerful instrument in presenting issues to the people and in forcing the legislature to act. Special messages on special subjects are frequently sent to the legislature from time to time during the session. In the hands of governors like La Follette of Wisconsin, Roosevelt and Hughes of New York, and Woodrow Wilson of New Jersey, the message and its recommendations bear great weight, especially when backed by popular opinion.

(3) The Governor's Veto. Through the power to send messages to the legislature and to convene it in extra session, the governor has a positive influence on

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legislation; through the power to veto bills passed by the legislature, he has an effective negative influence. In all states except North Carolina the governor is now given the power to veto bills which in his judgment are objectionable. The veto consists in returning the bills to the legislature without his signature and stating why it is withheld. This power is not limited merely to bills which the governor may think unconstitutional, but to those which he may deem inexpedient or out of harmony with his policy. In no state, however, is the veto power absolute. That would be too great a power to place in the hands of one man. All states therefore provide for the repassage of the bills over the governor's veto. In most states this takes a two-thirds vote of both houses of the legislature, although in a few states only a three-fifths vote, and in fewer still a bare majority vote, is required. As a rule, if the veto is made in good faith, and the reasons for it effectively stated, a sufficient number of members who voted for the bill the first time, vote against it the second time to sustain the veto. On the other hand, if the veto is used as a political weapon to promote partisan interests, it is not difficult to secure the necessary majority to override it. In some states the governor is given the power to veto particular items in appropriation bills without vetoing the entire bill. This is effective in preventing the passage of measures attached to appropriation bills as riders, as well as to eliminate individual items of appropriation.[1]

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Formerly the power of the governor was much less important than now. Profiting by experience with royal colonial governors, the early state constitutions curtailed the powers of the executive. But the fear of a tyrannical executive having been shown to be groundless, and the necessity of having a responsible head to the government demonstrated, the office of governor has constantly grown in power and influence until at the present time a strong personality can virtually dominate the situation, as plainly demonstrated by Woodrow Wilson in his brief term as governor of New Jersey. And various plans are now being advanced to still further strengthen the influence of the governor. One of these suggestions is to have the executive prepare administration bills and submit them to the legislature for passage in the same way that the cabinet does in England. In many states this is virtually done already. The governor has his lieutenants in both houses and it is frequently known that the bills these men introduce bear the backing of the administration. "As governmental relations become more complicated," observes Professor Reinsch, "and such intricate economic pursuits as banking, transportation, and insurance have to be dealt with by the legislatures, they more and more feel the need of expert guidance, and are willing to listen to the governor, the state officials, and the various boards and commissions, in matters of legislative policy and detail."[2]

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II. The State Legislature

The state legislature in all states now consists of two houses, a senate and a house of representatives, chamber of delegates, or assembly as the lower house is called in the various states. The members of both houses are elected by the people from districts according to population. The lower house is always the most numerous branch and in a few states is nearly as large as the National House of Representatives. New Hampshire, for instance, has a house of representatives of over 400 members. Connecticut has 255, Vermont 246, and Massachusetts 240. Arizona has only 35, but the average number for most of the states is around 100. The number of senators, on the other hand seldom exceeds 35 or 40. New York has 51, and Massachusetts has 40, and Minnesota 63, but most states have about 35. In all states the members are paid. New York and Pennsylvania pay $1,500 per year or per session, and Illinois, Ohio, and a few other states pay $1,000 per year. In most states, however, the compensation does not exceed $500 per session. Some states have adopted the per diem basis and pay so much per day during the session, averaging $4.00 or $5.00. In addition to the fixed compensation most states also allow mileage ranging from ten to twenty-five cents per mile. The term of the senator is usually longer than that of the representative. In most of the states it is four years, but in New Jersey it is three,

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and in Massachusetts and Rhode Island one. In other states the term is two years. In nearly all of the states the term for representatives is two years. Alabama, Louisiana, and Mississippi have a four-year term, while Massachusetts, New York, New Jersey, and Rhode Island still have a one-year term. There is a general feeling that the term should be lengthened. It usually takes a term to familiarize the new legislator with legislative procedure and methods.[3]

(1) Legislative Sessions. The legislature in most states meets in regular session every two years. In the states which elect their representatives for one-year terms — New York, New Jersey, Rhode Island and Massachusetts — and also in Georgia and South Carolina, the legislature meets annually. Alabama and Mississippi only hold regular sessions every four years. In all states, however, as has already been pointed out, the governor may call extra sessions whenever the exigencies of the situation demand. It was formerly thought that the legislature should meet frequently, but the number of bills introduced in recent years, and the unimportance of many of the subjects covered, has led many people to think that public interest would be as well served with less frequent sessions. Undoubtedly much time is wasted in the consideration of petty matters. To prevent this the constitutions of some states limit the length of the session to forty, sixty, or ninety days, or provide that the pay of the members shall cease at the expiration of that time, the hope

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being that fewer bills would be introduced. There is no doubt but that too many bills are introduced in all legislatures. Over 1,900 bills have already been introduced in the Wisconsin legislature during the present session. Limiting the session might reduce the quantity of legislation enacted, but it is doubtful if it would raise its quality. Sixty days is frequently too short a time to carefully consider important measures dealing with the industrial and economic interests of the state.

(2) Legislative Organization. The organization of state legislatures has been greatly influenced by that of congress. In the senate the lieutenant governor is the presiding officer, and in the house of representatives a speaker is chosen from its own membership. The speaker is usually the leader of the majority party in the house, and as such can exert a strong influence on the character of the legislation enacted. He calls the house to order, presides over its sessions, puts all motions and questions, enforces the rules of procedure, decides all points of order, recognizes those who wish to address the house, appoints the committees, signs all acts, and performs all the functions of the speaker of the national house of representatives at Washington. The powers of the speaker are usually greater than those of the lieutenant governor in the senate, since the lieutenant governor in some states does not appoint the committees.[4]

In addition to the presiding officer of each house

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there is a chief clerk, who prepares the calendar of its sessions, has the custody of all bills and resolutions, keeps the journal of the proceedings, reads the bills, calls the roll, and performs all the other functions of a secretary. He is assisted as a rule by several assistant clerks and bookkeepers. There is also a sergeant-at-arms, who keeps order and carries out the rules of the house under the direction of the presiding officer. Then there are stenographers, doorkeepers, a chaplain, postmaster, pages, and other employes who look after the routine work incident to the recording, printing, proofreading, and enrolling of bills and laws in the process of passage.[5]

The actual work of the legislature is done by committees. Each house is divided into a large number of standing committees, as they are called, sometimes as many as fifty or sixty, and to these committees all bills and resolutions are referred. The number of members on a committee varies from six or eight to as high as thirty-five or forty, according to the committee and the purpose of its appointment. Usually the most important committees are those on the judiciary, finance, ways and means, state affairs, municipalities, education, corporations, agriculture, and labor, and these committees usually consist of from ten to fifteen members.[6] The selection of these committees is one of the most important tasks of the presiding officer, for upon the makeup of the committees will depend the nature of their reports. The members are

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usually so distributed that the dominant party has a majority on each committee. In addition to the standing committees, there are usually select committees appointed for special purposes, and joint committees composed of members from both houses. When the houses cannot agree upon a bill a conference committee is appointed from both houses to compromise the matter, and report a bill that both houses will accept.

(3) Legislative Procedure. Certain requirements with regard to legislative procedure are usually prescribed by the state constitution. Thus in all states each house is required to keep a journal of its proceedings. In most states no law can be passed except by bill, no bill can embrace more than one subject, and no law can be enacted without an opportunity having been given for a public hearing. Most states also require a bill to be read three separate times before passage, a provision which is usually satisfied merely by reading the title, since all bills are printed and placed in the hands of each member. But the ordinary rules of procedure are generally left to the determination of the houses themselves. One of the first things that each house does on assembling is to adopt its rules of procedure. It of course always adopts the rules of the preceding session without much modification, but an opportunity to make changes is always given.

While there is this opportunity for great variation, the actual procedure, as a matter of fact, is very much the same in all states. A bill passes through the same

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stages in all. The first step is the introduction of the bill. This is done by a member of the house, who rises, addresses the presiding officer, and begs leave to introduce it. This is granted and the bill is sent by a page to the clerk, who reads the bill by title, after which the presiding officer announces the first reading of the bill. Usually the second reading and announcement immediately follow, although some states require readings on separate days. Upon the second reading the bill is referred to the appropriate committee for consideration and report. This committee then holds meetings and listens to the arguments for and against its provisions. Notices of the meetings are usually posted a week in advance in order to give those who wish to be heard an opportunity to reach the capitol from any part of the state. The member who introduced the bill usually appears before the committee at the beginning and explains its purpose and provisions, and then the others follow.[7] After the public hearing, the committee goes into executive session and either recommends the bill for passage, amends it, or recommends it for indefinite postponement, and returns it to the house where it is put on the calendar for a certain day, under the heading "Bills ready for engrossment and third reading." If so ordered, it goes to the engrossing clerks, who make all corrections and insert the amendments. On the following day it is put on the calendar for third reading and passage, at which time the final vote is taken and full opportunity for

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discussion before the house given. Having passed one house it is sent to the other by messenger and goes through a similar process there. If it is passed in the second house, it is returned to the originating house to be enrolled. The enrolled bill is then signed by the presiding officer of each house and presented to the governor for his signature. If the governor approves it, he signs it and then it becomes a law upon its publication. If, however, the governor does not approve it, he vetoes it by returning it without his signature, and before it can then become a law it must be again passed by both houses and must receive the required majority vote to override the governor's veto.[8]

The great number and complexity of the subjects upon which the state legislature is called to legislate, and the inexperience and lack of legal and expert knowledge of the members, has led to the establishment in several states of legislative reference departments to assist the members in the preparation and passage of laws. Wisconsin under the direction of Dr. Charles McCarthy has taken the lead in this respect. These departments collect the laws and judicial decisions of the various states upon the subjects of legislation, information and data upon their success, social, economic, and political effects, and employ expert draftsmen to frame the laws in proper shape. These departments have undoubtedly raised the standards of social and economic legislation in those states and have

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perhaps somewhat increased the number of bills introduced. Over twenty states now have such departments.

(4) Powers of the State Legislature. According to the American constitutional system, as has already been pointed out, the state legislature has the power to enact any law which it is not forbidden to enact by either the federal constitution or the constitution of the state. But there are some very important limitations imposed by those constitutions, the most important being those of the constitution of the United States. Thus no state can lay or collect imposts or duties on exports or imports. No state can levy a tonnage tax without the consent of congress. Nor can a state tax the agencies or instrumentalities of the United States government, for the power to tax is the power to destroy. Again, the regulation of interstate commerce is given by the federal constitution to congress, and no state can pass any law regulating or in any way interfering with that. States are also forbidden by the constitution to pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts. Nor do the states have any power over the monetary system, that being reserved for the regulation of congress. But by far the most important limitation is that imposed by the fourteenth amendment, which provides that "No state shall make or enforce any law which shall abridge the privileges or immuni-

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ties of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law;[9] nor deny to any person within its jurisdiction the equal protection of the laws."

Other limitations are frequently imposed by the state constitution itself. Many states forbid the legislature to pass special laws where general laws are applicable, as in the case of municipal government. Frequently the constitution limits the amount of indebtedness which the state and its various divisions may incur. In recent years there has been a tendency to regulate many things through the provisions of the constitutions themselves, thus taking the matters treated out of the hands of the legislature. Thus the constitutions of several states prescribe home rule for cities, and transfer the power of charter making from the legislature to localities themselves. But perhaps the most important provisions of the state constitutions in this regard are those providing for the initiative, referendum, and recall, by which the power to initiate legislation and to veto the acts of the legislature is given to the people themselves. This question of direct legislation will be discussed in Part VI of the following volume and it is only necessary here to call attention to it as a far-reaching limitation upon the powers of the legislature.

But notwithstanding these limitations, the powers of the state legislature are the most extensive of all legislative bodies in America, and cover the whole field of social and business, as well as political relationships.[10]

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II. The State Judiciary

The state judiciary, theoretically, has nothing to do with the making of laws; it merely interprets them. But in the interpretation of laws there is always great opportunity to expand or contract their application accordingly as they are liberally or strictly construed. We therefore hear in these days a great deal about court-made law. Undoubtedly the constitutions have been greatly expanded and developed by the courts, and justly so. They have been developed to keep pace with the changing social, economic, and political conditions. The courts, however, are after all quite responsive to public opinion, and few principles have been read into the constitution until long after public opinion has endorsed them. The functions of the judiciary are administrative and will be dealt with in the following chapter on State Administration. It only remains to outline the organization of the judiciary as it is found in most of the states before taking up that important branch of the government.

The regular courts of most states are of four grades. First, there is the justice court, presided over by the justice of the peace. This is the lowest court and tries merely petty offenses and civil cases not exceeding a certain amount, usually $250. The justice is usually elected and paid by fees. Next above the justice court is the county court. This court tries more serious cases and hears appeals from the justice court. Above

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the county court is the circuit court. The circuit court, so-called because the judge used to go on a circuit holding court in different counties, has jurisdiction over several counties, as a rule, and has full jurisdiction irrespective of the amount of the controversy or the seriousness of the offense. And above all the courts of the state is the supreme court, or court of appeals, as it is sometimes called. In the other courts of the state but one judge presides; but the supreme court is composed of a chief justice and usually from two to eight associate justices. This court has jurisdiction over the entire state, and its decision is final in all cases except those involving questions of constitutionality under the federal constitution. The bulk of its work is hearing cases appealed from lower courts.

In addition to these regular courts, there are certain special courts. Thus in many cities there are municipal courts of various jurisdiction from the justice to the circuit courts. In many of the larger cities there are juvenile courts for the trial of juvenile delinquents, instead of trying them in the regular courts and starting them off in life with a court record. These are more in the nature of probation courts. Denver, under the leadership of Judge Lindsey, and Indianapolis have been most prominent in this direction. Then there are probate courts in many states which settle the estates of deceased persons, and handle matters relating to wills, inheritances, and the affairs of minors and orphans. And in some states there are still separate

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courts of equity, for handling cases which the law is inadequate to reach.

In nearly all states the judges of the higher courts are now elected. In seven states they are appointed by the governor and in four elected by the legislature. In three states the judges of the supreme court serve for life or good behavior, but in other states they serve for a fixed term only. There is little uniformity in the length of term, it varying in different states and for different courts from two to twenty-five years. The average term, however, is from six to twelve years. And the compensation varies as greatly as the term. The highest salaries are paid in New York, where the judges of the supreme court get $13,000 per year. Illinois pays $12,000, but few other states pay over $5,000 per year. The salaries of the lower courts seldom exceed $2,500 or $3,000. As a class, our judges are greatly underpaid, considering the great interests that are intrusted to their judgment.

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SUPPLEMENTARY READING

CHAPTER VI

The Organization of State Government

[1] **Growth of Executive Influence.**— Even contemporaries are able to note the beginnings of silent innovation. Of all its bearings, they may be but dimly aware, yet they can see that a real change is slowly taking place. One such lies upon the surface of English politics today, and is clearly discernible in our own. We mean the greatly heightened powers of the executive government, in what relates to legislation. In England, the initiative of private members of Parliament has almost entirely disappeared. All the important bills are now government measures and the government is claiming and getting more and more of the time of the House of Commons. This is a profound change, and represents an entire dislocation of the literary theory of the British Constitution, a hundred and twenty years ago.

But a similar alteration of inherited practice is rapidly invading this country also. The Executive as Legislator is now a familiar figure among us. President Roosevelt is not the only exemplar. Governor after Governor has been making of himself the chief fountain of legislation in his State. There is no more suggestive sign of the times. East as well as West, the phenomenon presents itself. Governor LaFollette in Wisconsin has been imitated by Governor Johnson of Minnesota and Governor Hoch of Kansas. To the initiative of Governor Hughes of New York comes an immediate response from Governor Woodruff of Connecticut and Governor Fort of New Jersey. All of them press critical matters upon their legislatures. All of them tacitly assume that the Governor must intervene with prompting and public advocacy of important legislation, or else it will fail. Nor is this attitude

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much resented by legislature or Congress. As for the people, they accept it enthusiastically.

It is clear, to begin with, that Congressmen and members of the legislature are becoming more strictly *local* representatives. They cannot see beyond their districts. Few of them are nationally-minded or State-minded. In large affairs, affecting all the people, they have lost their initiative, because their time and strength are taken up with the petty interests of their immediate constituents. For them, they run errands, seek offices, work for local appropriations.

Somebody else has to take the broad view, to look after the nation or the State, while they are absorbed with Buncombe County or Podunk. And this somebody is getting to be more and more the directly elect of all the people. To a President, or Governor, thus chosen, all the people are coming to look increasingly, not merely for administration, but for impulse and driving power in legislation. They may be no wiser than the nominal legislators, but they have a wider outlook, and they feel mightier impulses from the whole citizenship pushing them on. Hence, it is no trouble for democracy to adjust itself to the new practice. Choosing the executive directly, it chooses him now to be the chief medium of progressive and reformatory law-making. If it gets its will done, it cares little about the instrument. If American Congresses and legislatures are leaving off fighting the Executive, it is because the Executive has come best to represent the whole people.— *Chas. A. Beard, "Readings in American Government and Politics," pp. 442, 443.*

[2] **Impeachment.**— As the great constitutional check upon the legislature is the veto, so the great legislative check upon the Executive, as well as all civil officers, is the power of impeachment. An impeachment is an accusation in writing presented by the lower house of the legislature against an official, for an offense or offenses, to the upper house of the legislature, or, under exceptional constitutional provisions, to a special tribunal, upon which a trial is to be had. When the accusation is formally presented the accused is properly said to be impeached. If the accusation is sustained and judgment pronounced he is said to be convicted on impeachment. In some states suspension

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from office follows impeachment; in others the official status is not affected until the accused is convicted.

In the United States an impeachment is usually considered to be in the nature of a criminal proceeding to be prosecuted in observance of the general principles of criminal procedure as administered in the courts of law. But some authorities consider it to be a proceeding of a political nature designed not so much to punish the offender as to secure the state by the removal of unfit persons from office. The proceeding is not within the provision of Magna Charta as to trial. While the state constitutions and the Federal Constitution expressly provide for it, the latter excepts impeachment from the provisions as to trial by jury. The Senate or other tribunal when organized for trial of an impeachment is a court of original, exclusive and final jurisdiction; the courts have no power to review or question the judgment of the Senate, and when once pronounced, the proceedings having terminated and the tribunal having risen, it is probable that the Senate, like other special tribunals and the courts of law under similar conditions, loses power over its own judgment.— *Finley and Sanderson, "The American Executive and Executive Methods," pp. 59, 61.*

[3] **Type of Legislators.**— The legislator must have the qualifications of a voter of the commonwealth, and several states fix an age limit, differentiating between members of the senate and of the lower house. An examination of the composition of our state legislatures by Dr. S. P. Orth shows that they are fairly representative of the diverse elements of our population. In the senate of Vermont, in 1904, for example, there were nine farmers, four lawyers, four physicians, thirteen merchants; three were college graduates, seven had received training in professional schools, seven had been educated in academies, and thirteen had never gone beyond public schools. Of these men, twenty-seven had had considerable previous political experience; one had been township clerk for thirty-five years; another, during his career, had held most of the town offices; and some had had both legislative and official experience. In the Vermont lower house of the same year there were 252 members; of these 123 were farmers, six were lawyers, ten were physicians, forty-eight were

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merchants and manufacturers, three were bankers, five were preachers, six were insurance writers, two were hotel proprietors, three were liverymen, fourteen were laborers or artisans, and six apparently had no occupation except that of general politician and office-seeker. "One member," says Mr. Orth, "made his daily bread by occasional speculation." One member was a lawyer, farmer, and breeder. Another was town clerk and treasurer and clerk in a general store. But the most versatile of this coterie of men was one who professed to be at the same time a furniture dealer and undertaker and miller and dealer in grain and feed. Of the members of the lower house seven-eighths had held public office, some of them for fifteen, eighteen, twenty, and thirty-six years; but strange to say,—and this is a significant fact,—only nineteen of the total number of senators and representatives had ever sat in a former legislature. The great majority of them, therefore, had had no practical experience for legislative work.

Mr. Orth has taken Ohio as a type of a populous state in which manufacturing, mining, and agriculture are nearly of equal importance. In the senate of thirty-three members, fourteen were lawyers, and there were nine business men, two teachers, two editors, two farmers, and one physician; one-third were college men, another third had received some training in academic, normal, and professional schools, while the remainder had completed their education in the common schools. Only one-half of them had been office-holders and twenty-seven of them had had no previous legislative experience whatever. Of the 110 representatives in the lower house of the Ohio legislature, about one-third were lawyers, one-fifth farmers, one-sixth business men; and there were ten teachers, five physicians, three editors, one preacher, ten laborers and artisans, two auctioneers, a commercial traveller, a law school student, a court crier, a music composer "with a national repuation, being the author of many works on music and over 100 piano compositions, many of which had proven very popular." Of the members of the lower house two-thirds had never held office, while three-fourths had never had any legislative service.—*Chas. A. Beard, "American Government and Politics," p. 525.*

[4] **The Speaker.**—On account of the comparatively large

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membership of the lower house in the state legislatures, as well as the inexperience of the majority of its members, it is natural that a large amount of power should have been concentrated in the hands of the speaker. Through his power of making committee appointments, of distributing the legislative business, of guiding the discussion on the floor, and, with the aid of the committee on rules or through an informal steering committee, of controlling or at least influencing the order of business, and determining the opportunities to be accorded the backers of any particular measure, the speaker may build up a powerful influence, if he unites technical knowledge with political tact. The chances for the development of a strongly centralized parliamentary authority in the state legislatures are of course less favorable than they have been in Congress during the last two decades. Yet in some of the larger states, like New York, Pennsylvania, and Illinois, gavel-rule has at times been carried out with more lack of consideration for the political opposition, and especially for the minority in the ruling party, than has ever been exhibited in Congress. While the Congressional speaker has never been accused of systematically working in alliance with corrupt interests, such connection has at times been established in some of the states. In Pennsylvania it was openly acknowledged, with the cynical frankness of the former political masters of that commonwealth. The New York Assembly has perhaps approached more closely to the model of Congress, and under strong and able speakers like Nixon there has been a concentration of parliamentary activities, and a guidance of parliamentary procedure through the committee on rules, closely approaching the situation in Congress. But in the ordinary legislatures, parliamentary centralization is not carried to such an extent because it is not necessary. The membership is smaller, the amount of business less distracting; there can be more free discussion and more individual independence of the members. In these legislatures, the speaker owes what influence he may have to his personal experience and ability, rather than to the structural factors involved. It occasionally happens that even in those states in which the organization is most effectual, a successful revolt may take place. Thus in the Illinois Assembly of 1903, the power of

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the speaker was overthrown by the minority Republicans and Democrats, when the famous traction bill of that year was up for consideration.—*Paul S. Reinsch, "American Legislatures and Legislative Methods," p. 177.*

[5] **California's Legislative Employees.**—The California house of representatives, consisting of eighty members, had in 1907 the following paid employees: one chaplain, one chief clerk, four assistant clerks, one sergeant-at-arms, one bookkeeper, one clerk, fifteen assistant sergeant-at-arms, twenty-three committee sergeant-at-arms, one journal clerk, six assistant journal clerks, five minute clerks, nine assistant minute clerks, one history clerk, one assistant history clerk, one engrossing and enrolling clerk, thirty assistant engrossing and enrolling clerks, one postmaster, six assistant postmasters, one secretary to the speaker, one bookkeeper to the ways and means committee, one file clerk, two assistant file clerks, one bill clerk, thirty stenographers, one clerk to the minority, sixty-nine committee clerks, forty assistant committee clerks, two copy clerks, one mail carrier, one electrician, three telephone attendants, one cloak room attendant, ten doorkeepers, thirty porters, and nineteen watchmen, making a total of 335 employees with salaries ranging from $3 to $8 per day. The senate, composed of forty members, has 228 paid employees. —*J. W. Garner, "Government in the United States," p. 81.*

[6] **Committee Investigations.**—The practice has recently arisen of allowing committees of the legislature to sit in the interval between legislative sessions. The purpose usually has been to acquire through investigation a sufficient basis of fact for prospective legislative action. The holdover senators form the personal link between the legislative session appointing the committee and that to which it is to report. Considering the frequency of extra sessions in most states which have a biennial session, we note a certain tendency toward continuity of legislative action, of which the inter-session committees are another indication. Prominent examples of such committees are the Stevens committee (1904), for the investigation of gas prices in New York, which did exceedingly careful and important work; the committee on traction interests appointed in Massachusetts in 1905; and the famous insurance investigation committee ap-

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pointed in New York the same year. This activity of a legislative committee of inquiry in subjecting a certain industry or condition to a searching scrutiny, uncovering abuses, putting aside shams, and arriving at a sound basis of fact, is certainly the only safe preparation for legislative action upon complicated industrial and financial matters. As the powers of such a committee to demand the production of evidence generally transcend those possessed by a grand jury, this method bids fair to become very useful for the purpose of dealing with a widespread corruption, backed by powerful interests.

An important investigation was undertaken by the Drake committee of the Ohio senate in 1906. In inquiring into the affairs of Cincinnati, the committee caused the return to the public treasury of over $200,000, which had been given as gratuities to treasurers, by banks favored in the deposit of Hamilton County funds. The work of the committee was blocked, and its powers of action emasculated by a remarkable decision rendered by a judge of the court of common pleas, who took the ground that the investigating committee was an illegal body, as the constitution of Ohio gave the legislature no authority to appoint a commission with power to take testimony as to alleged corruption in Hamilton County and to compel the attendance of witnesses.— *Paul S. Reinsch, op. cit., p. 174, 175.*

[7] **The Legislator's Experience.**— Some notion of the practical experience of legislators, especially new men, can be gathered from the following somewhat humorous account by a member of the New York assembly: "Before I came up here I had an idea that a legislator, after a profound study of the subject, would introduce a bill with a few words that would at once attract the attention of the press and through them the public. Presently, by some machinery which I never clearly understood, the bill would be taken up in its turn and after grave and serious argument would be either passed or defeated. But what really happens is this. You sneak up back of the desk and drop into a slot your bill, which half of the time you don't know anything about yourself, because either your boss, or your senator, or some organization in your district, gave it to you. By bothering the clerk next day you can find out what committee it has been

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referred to. If you are a member of the committee, there is a good chance to get it reported, because the other members of the committee want your vote to get their own bills out. If not, you are a hundred to one shot, unless your senator comes over and sees Wadsworth (the speaker of the assembly) or Merritt (the floor leader of the majority) about it. The next thing you do is to ask for a hearing on the bill. You find out who is the chairman and hunt him up. When he sees you are only a first-year man, he insists in mistaking you for a doorkeeper or messenger, just to let you know your place. After you get that straightened out and tell him what you want, he pulls a long face and talks about the flood of bills they have to consider. That's all you can do. If the committee, or rather if two or three men on the committee, are willing to give your bill a chance, you may get it out after begging like a college president. Once on the calendar, instead of the chairman of the committee, you have one man, Merritt, the Republican floor leader, to convince before you can get a vote on the bill at all. They say it's even worse over in the senate, but it's bad enough here. All the new assemblyman is good for is to vote as he is told. If he doesn't do that, never a bill of his will see daylight. The committee holds the power of life and death over a bill, and Wadsworth and Merritt hold the committee in an iron grip."

As a matter of plain fact, a great portion of our legislation is done in the most hasty and irregular manner. The members usually waste from one-third to two-thirds, if not more, of the session, and then the measures are rushed through during the closing hours with little regard to the actual rules.— *Chas. A. Beard, "American Government and Politics," p. 538.*

[8] **The Lobby.**— In all our states a large proportion of the legislation enacted affects directly or indirectly the interests of particular persons, classes, or localities. As a result, interested parties bring great pressure to bear upon the members to pass certain bills or to reject certain others.

Usually when the legislature meets, the paid representatives of interested individuals, corporations, or local governments appear on the scene to urge legislation in their interests or to defeat bills introduced that are unfavorable to them. These persons are

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known as "lobbyists," and the means they employ to secure or prevent legislation are often improper and sometimes venal. Sometimes money is used to bribe members to vote for or against pending measures, and there are few states indeed where charges of this kind have not been made. In one state recently, money was contributed in large quantities by persons interested in preventing certain legislation, and the sum thus contributed was known as the "jack pot" fund, out of which the members were handsomely paid for their votes. In a special message to the legislature of New York state, Governor Hughes declared that certain disclosures had "caused honest citizens to tingle with shame and indignation and made irresistible the demand that every proper means should be employed to purge and purify the legislature." The situation described by the governor as existing in New York unfortunately exists in other states as well.

Some of the great corporations maintain regularly paid lobbyists at the state capitals when the legislature is in session, not so much for the purpose of securing legislation in their interests as to prevent the enactment of laws to which they are opposed. Sometimes they are practically forced to have lobbyists on the ground to prevent the enactment of what are called "strike" bills, that is, bills introduced by unscrupulous members for the purpose of extorting money from the corporations to pay for defeating the bills.—*J. W. Garner, "Government in the United States," p. 84.*

[9] **Due Process of Law.**— What is due process in criminal cases? A law of California provided that a person could be prosecuted for felony by information after examination and commitment *without* indictment by a grand jury. Under this law one Hurtado was charged with the crime of murder on information without preliminary grand jury hearing and indictment, and, after jury trial in the ordinary manner, was found guilty and condemned to death. Was Hurtado to be deprived of life and liberty without due process of law? The court replied that due process of law under the Fourteenth Amendment was different from that of the Fifth Amendment; that it did not require indictment by grand jury; and that "any legal proceeding enforced by public authority, whether sanctioned by age and custom, or

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newly devised in the discretion of legislative power in furtherance of the general public good, which regards and preserves these principles of liberty and justice (lying at the basis of all our civil and political institutions) must be held to be due process of law."—*Chas. A. Beard, "American Government and Politics," p. 439.*

It is in legislation controlling corporations and protecting labor that state legislatures most frequently come into conflict with due process of law as interpreted by the Supreme Court. For example, the legislature of Minnesota created a railway commission with the power to compel any common carrier to fix such rates as the commission should declare to be equal and reasonable, and made no provision for judicial review of the rates and charges so fixed. This law was held unconstitutional on the ground that it deprived a railway company of its right to judicial investigation by due process of law under the forms and with the machinery provided for the judicial investigation of the truth of any matter in controversy, and substituted for this, as an absolute finality, the action of a railway commission which could not be regarded as clothed with judicial functions or possessing the machinery of a court of justice. To take another example: the legislature of New York passed a law providing that no employees should be required or permitted to work in bakeries more than sixty hours a week or ten hours a day, and the Supreme Court held this law invalid on the ground that it was an unreasonable, unnecessary, and arbitrary interference with the right and liberty to contract in relation to labor — the right and liberty to purchase and sell labor being within the protection of the Fourteenth Amendment. Whenever a state regulates railway or other rates, its terms must be "reasonable," that is, allow proper returns on investments.—*Ibid, 440.*

[10] **Extent of Legislative Powers.**— In spite of the numerous restrictions, however, the power of the legislature is very large. It enacts the whole body of criminal law of the state; makes laws concerning the ownership, use, and disposition of property, laws concerning contracts, trade, business, industry, the exercise of such professions as law, medicine, pharmacy, and others; laws relating to the government of counties, towns, cities,

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and other localities; laws concerning the public health, education, charity, marriage, and divorce, and the conduct of elections; laws concerning railroads, canals, ferries, drainage, manufacturing, eminent domain, and a very great variety of other matters. The subjects concerning which the legislatures may enact laws are indeed so numerous and varied that it would be impossible to enumerate them all. For that reason the legislature is by far the most important branch of the state government, and it is highly important that it should be composed of honest, intelligent, and efficient members. Unfortunately, however, in many states the legislature has declined in public esteem. In the early days of our history the legislative branch of the government was all-powerful. It was not only practically unlimited as to its power of legislation, but it was intrusted with the choice of many important officers of the state. Now, however, there is a disposition to cut down its powers and place restrictions on the exercise of those that are left to it. In many states the people have secured the power to legislate for themselves by means of the initiative and referendum; and, to diminish the power of the legislature to enact useless laws, many constitutions limit the length of the sessions to forty or sixty days in the hope of compelling it to devote its time to the consideration of important measures of general interest.—*J. W. Garner, "Government in the United States," p. 74.*

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CHAPTER VII

STATE ADMINISTRATION

AT the head of the administrative system of the state is the governor. We have already discussed his duties in connection with legislation, and now pass to a consideration of his position as the chief executive and head of the administrative department. Unfortunately the actual position of the governor in this capacity is neither as imposing nor as influential as one might reasonably expect from the chief executive office of a great commonwealth. While theoretically held responsible for the efficiency of the administration and for the enforcement of laws in a general way, he is given little control over the officials upon whom he has to depend. In no state does the governor appoint all of the heads of departments and principal administrative officers of the state. On the other hand, in most states the majority of these officials are elected by popular vote. In the national government, the president appoints all of the heads of the administrative departments — the members of the cabinet — and can remove them at any time.[1] But in the states, the corresponding officials are elected. The attorney-general, secretary of state, state treasurer, and superin-

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tendent of public instruction are all elective officials. And even over those officials whom the governor appoints he is given no effective power of removal. In many states, however, there are evident tendencies to increase the power of the governor and to make his control and supervision more effective. The governors themselves through their influence over legislation are gradually bringing about this result, and in time real responsibility may be secured.

(1) The Governor. The most important administrative power of the governor is his power of appointment. Formerly most of the state officials were elected by the legislature, but gradually they came to be elected by the people or appointed by the governor. But even yet, nearly all appointees of the governor have to be approved by the upper house of the legislature. In a few states the legislature still elects the secretary of state, state treasurer, and a few other officers, but these are the exception. Such officers are everywhere else elected by popular vote, except in one or two states where they are appointed by the governor. In some states the governor appoints the judges, although in a majority of the states these are elected. In some states the governor appoints various important administrative officials, such as the commissioner of insurance, commissioner of public works, state health officer, the commissioner of banking, and other officers of similar nature. In a large number of states the gov-

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ernor appoints the members of the semi-professional and expert commissions like the railroad commissions, the industrial commissions, and the labor bureau; the trustees of public institutions like the boards of control, the university regents, and managers of penal institutions; and the members of various examining boards. But as compared with the appointing power of the president, for instance, the appointing power of the governor, even, is very limited. And in the power of removal the governor is much more restricted than the president. The governor can sometimes remove the officials whom he appoints but seldom any others, and even in the case of officials whom he appoints his hands are frequently tied. Other officials can only be removed by impeachment. There is a tendency, however, to extend the governor's power both of appointment and removal. In some states the governor is given considerable power to make investigations into the conduct of various state officials.[2]

The governor is commander-in-chief of the military forces of the state, and appoints a staff who receive complimentary titles and accompany him on occasions of state. He is charged with the enforcement of law and may call upon the state militia to assist him, and to maintain peace and order throughout the state. In most states at different times the governor has been called upon to order out the militia to quell an insurrection, suppress a riot, stop a strike or a lynching, or

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to restore order where the local police forces have been ineffective. But in times of peace the military powers of the governor are not important.[3]

In most states the governor has the power to grant pardons for offenses against the state, and in most states this power is unlimited; but a few states in recent years have created boards of pardon, who share with the governor the power to grant pardons. These boards usually make the investigations and recommend action to the governor. The governor also generally has the power to stay executions and to commute or reduce sentences. In addition to these administrative, military, and civil powers, the governor has various social functions to perform. He is the general representative of the state. It is his duty to receive and welcome the state's visitors, to give opening addresses at celebrations and public meetings, to dedicate public buildings, and to represent the state on state occasions. Both in a social and a political way, while the actual powers of directing the state affairs are still limited, the office of governor carries with it a great deal of dignity and prestige. It frequently serves as a steppingstone to the presidency.[4] Cleveland, McKinley, Roosevelt, and Wilson of the recent presidents all served as governors of their respective states. That the office is coming to be looked upon, however, more as an end in itself than as a step in political preferment is evidenced by the fact that during the last five

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years an annual conference of governors has been held for the study of executive and state problems.[5]

(2) Lieutenant Governor. In all but a few of the states there is also a lieutenant governor, who succeeds the governor in case of death, resignation, or removal from office, and who acts as governor whenever the latter is incapacitated or absent from the state. During the legislative sessions the lieutenant governor acts as president of the senate, but at other times he has little to do. As a rule the office is filled by someone who will make a good running mate for the governor in securing votes, or used to sidetrack a formidable rival for the nomination. Much more importance should be attached to the office than it now receives, especially as the lieutenant governor is liable to be called upon to act as governor at any time. Where there is no lieutenant governor, the president of the senate or the secretary of state usually succeeds the governor.

(3) The Secretary of State. The administration, under the supervision of the governor, is divided into a large number of departments. The most important of these is the department of state. The secretary of state is the custodian of the state archives and the keeper of the great seal of the state. He has charge of the publication and distribution of the laws, signs all proclamations and commissions issued by the governor, and issues certificates of incorporation to all

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companies incorporated under the laws of the state. He is the one charged with issuing the notices for state elections, receives the returns from the counties, and keeps all election records. He makes report to the governor and the legislature on many subjects, and performs many other duties in connection with the state government of a clerical and routine nature. He does not, however, have many discretionary duties and has little to do with formulating state policy, as is the case in the federal department of state. Except in Pennsylvania and a few other states he is elected by the people for a short term and receives a fixed salary.

(4) The State Treasurer. The treasurer is the custodian of the moneys belonging to the state received from taxes, fees, trust funds, and other sources, and upon warrants issued by the auditor or other proper authority pays out the money appropriated by the state legislature. He is also elected by the people as a rule, and is required to give a heavy bond conditioned upon the faithful discharge of his duties and to protect the state from loss in case of his dishonesty or carelessness. The treasurer usually receives an annual salary, and in times past received, many times, the interest from state funds deposited in the banks. Formerly state treasurers received thousands of dollars in this way, but such moneys are now in most states paid back into the state treasury. At times the office of state treasurer becomes a very responsible position. The treasurer is held personally responsible for all moneys

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received and paid out. If he pays out money unlawfully, or under an unconstitutional statute, he is obliged to refund the amount to the state. It therefore behooves him to be circumspect in his disbursement of public funds.

(5) The State Auditor. It is the duty of the auditor or comptroller to audit the accounts of the state, to issue warrants to the treasurer for the disbursement of moneys, to examine into the accounts of certain county and local officials, to appoint and supervise certain examiners, and to perform various other accounting and bookkeeping duties prescribed by the laws of the various states. Oftentimes the auditor's office is made the medium through which the state exercises control over its municipal corporations. Cities, counties, and villages are sometimes required to install uniform accounting systems prescribed by the state auditor and to make regular reports of their finances on schedules prepared by him. Sometimes the auditor is elected and sometimes appointed by the governor. The auditor should be an expert accountant.

(6) The Attorney-General. The attorney-general is the legal counsel for the state and its officers. It is his duty to advise the governor and other state officials on legal questions, to prosecute and defend all cases in which the state is interested, and to take charge of the state's legal business. He is usually assisted by several deputy attorneys-general. If the governor is in doubt in regard to the constitutionality of a bill

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which has been passed by the legislature and presented to him for approval, he calls upon the attorney-general for an opinion upon the subject. Or if the secretary of state wishes to find what his power or duty is in regard to a certain situation, he may call upon the legal department for advice. It is also the duty of the attorney general to give legal advice to district attorneys and prosecuting attorneys when requested by them to do so. In the case of offenses against the state, the malfeasance of public officers, and similar cases, the attorney-general takes the initiative and begins proceedings. Although this is a professional calling, the incumbent is in most states elected by popular vote.

(7) Superintendent of Public Instruction. Public education has always been considered a state function and the state has always maintained supervision over it. The superintendent of public instruction, or commissioner of education as he is sometimes called, is charged with general supervision of the public schools of the state, administers the school laws, apportions the primary school funds, holds teachers' institutes, collects school statistics, makes reports to the governor and the legislature, and in general promotes the educational interests of the state. He is frequently an *ex officio* member of the state board of education and the boards of trustees of the various educational institutions.

(8) Other Administrative Officers. In addition to the officers already mentioned, there are a great many

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appointive officials with duties of a specialized character, which can only be mentioned here. There are in many states, for instance, commissioners of labor, agriculture, health, immigration, insurance, banking, corporations, and forests, fish and game wardens, dairy and food commissioners, factory inspectors, oil inspectors, tenement house inspectors, superintendents of public works and public property, state architects, engineers, and many others charged with the administration of special phases of state regulation. Not all of these are found in all states, but many of them are found in most states. Each legislature has a tendency to create special officers to administer new phases of the state's ever widening government.

(9) Boards and Commissions. In addition to these regular administrative officials, there have been created in many states a great many additional administrative boards and commissions to carry into effect the regulations dealing with specific matters.[6] So numerous, indeed, have these become that in many states there is a decided prejudice against "government by commissions," on the ground that it removes government away from the people. Only a few of the most important of such commissions can here be mentioned, but in general they fall in one of four or five classes. Some of them deal with phases of direct administration, such as tax commissions, educational commissions, and boards having supervision of state institutions.[7] Others have to do with ascertaining the

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qualifications of those engaging in various trades and professions, such as the board of law examiners, dental examiners, medical examiners, the boards of examiners of barbers, engineers, pharmacists, plumbers, and similar boards and commissions. Another group of commissions have to do with scientific research, such as the geological survey, boards of forestry, labor bureaus, health commissions, library commissions, etc. And still another group have to do with advancing the industrial and commercial interests of the state, such as the industrial boards, boards of agriculture, mining commissions, and similar commissions. But perhaps the most important commissions at the present time are those having to do with the regulation of economic problems, such as railroad commissions, public utility commissions, insurance commissions, and commissions of like character.

(10) The Tax Commission. The most important commission from the point of view of the taxpayer is the tax commission. The tax commission in most states has general supervision over the administration of the assessment and tax laws of the state, and over the assessors, boards of review, and other officers charged with the assessment and collection of taxes.[8] It directs and advises tax assessors, directs proceedings against violators of the tax laws, frequently assesses corporations, and usually acts as a board of equalization in the valuation of property for assessment in the different counties. After the appropriations are

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made by the legislature, the tax commission determines the rate for state taxes, and apportions the amount of taxes to be raised in each county. Tax commissions usually have extensive powers of reassessment. If it has reason to believe that the authorities of a certain county are undervaluing property for taxing purposes in comparison with the other counties of the state, it can raise the valuation and reassess the taxes.

The larger part of the revenues of the state, like those of the local government areas, are received from the general property tax, which is a tax levied on all the real and personal property in the state. But frequently the right to levy certain taxes is exclusively retained by the state. Thus, in many states, the state alone can tax corporations, and frequently the corporation tax is sufficient, together with other revenues, to meet the needs of the state, and no state taxes are levied on the general property. Taxes on railroads, telephone and telegraph companies, bridge companies, banks, insurance companies, and municipal monopolies are taxes of this kind. Other taxes frequently levied by the state are mortgage taxes, levied on capital invested in mortgages; inheritance taxes, levied on money inherited from deceased persons; income taxes, levied on the amount of income received each year; poll taxes, fixed amounts levied on each individual as such; license taxes, levied for the privilege of engaging in certain trades or professions; and franchise taxes, levied for the exclusive right to use the streets,

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to exist as corporations, or to enjoy certain other special privileges.[9]

(11) Railroad Commissions. The railroad commissions are created for the purpose of regulating the great transportation and public utility companies. They are of two kinds — those that merely direct attention to cases of neglect, ill treatment, and overcharges without the power to enforce rulings, and those that have power to compel compliance with their orders and to fix rates. Massachusetts is a good illustration of the former, and New York and Wisconsin of the latter. The latter are by far the most effective. The commission of Wisconsin, for instance, has the power to determine a reasonable rate for the service and to enforce it. It ascertains the actual physical valuation of the property used in the operation of the utility and then fixes the rate at such a figure as will permit the company to earn, let us say, seven per cent. on that valuation after paying all legitimate expenses. If the earnings of the concern yield a larger profit than seven per cent., then the commission reduces the rates that can be charged. In this way the state has been able to meet a situation, in dealing with the railroads, street railways, electric light, and other public utilities, which the local governments have been unable to handle, and the number of such commissions are rapidly increasing.

(12) The Administration of Justice. In the administration of justice through the courts, the jurisdiction of the state extends to all classes of cases, both civil

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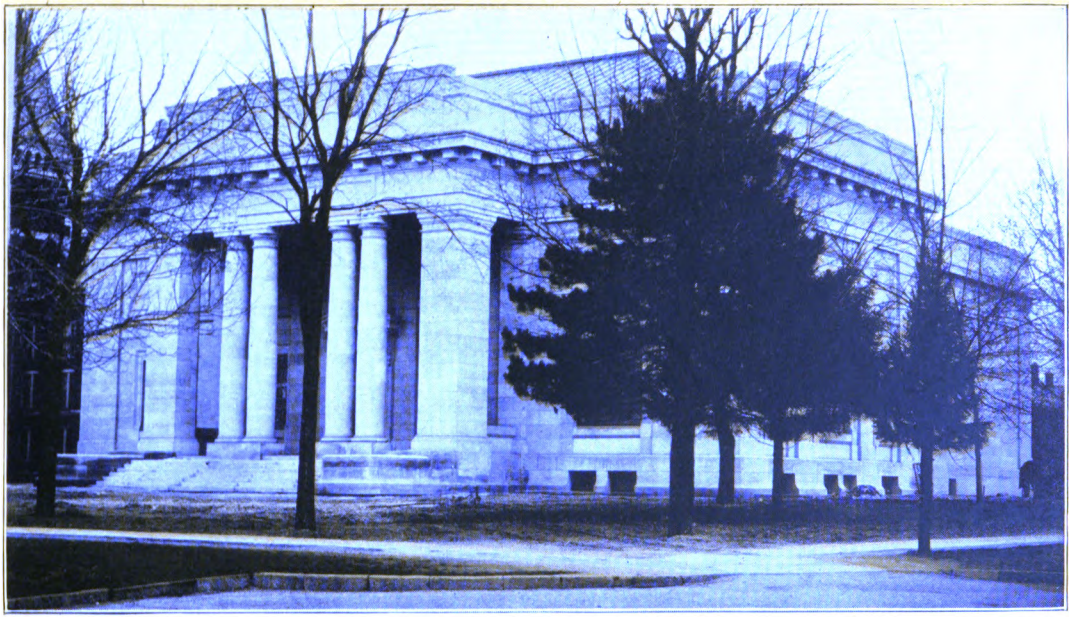

MEMORIAL BUILDING, THE UNIVERSITY OF MICHIGAN, ANN ARBOR, MICH.
A fine type of a state building.

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and criminal, unless limited by the federal or state constitution. In civil cases the action is brought by an individual to enforce a private right or to secure damages for a private wrong; in criminal cases the action is brought by the state to punish wrongdoers for the commission of crime and the breaking of the law. In these two cases a slightly different procedure is followed.

In civil cases the suit is brought by the party seeking justice, and known as the plaintiff. The one against whom the suit is brought is the defendant. The case is started by the plaintiff filing a complaint with the court, stating the facts of which he complains. The court then issues a summons directing the sheriff to notify the defendant to appear and make answer. The defendant files an answer or plea denying the facts, or admitting the facts and denying the right of action, or the jurisdiction of the court, or stating the other grounds of his defense. In cases in equity the judge may hear the case alone if the parties agree to dispense with a jury, but in cases at law a jury of twelve men is impanelled to try the case. After the jury is sworn in, the attorney for the plaintiff states to the jury the facts upon which he rests his case and then calls his witnesses to testify to their knowledge of those facts. When he is through questioning the witnesses, the attorney for the defense is allowed to cross-question them. When the plaintiff has introduced all his evidence, the defendant presents his side of the case in

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the same way, the attorney for the plaintiff being allowed to cross-examine the witnesses. Each side is allowed to introduce evidence in rebuttal, after which the attorneys make their arguments to the jury, endeavoring to convince them that the evidence shown proves the facts in their side of the case. Just before the jury retires to determine the verdict, the judge instructs them in regard to the law applicable to the case. When the jury arrives at an agreement, they return and the foreman announces the verdict, after which the judge discharges them and enters judgment accordingly. If the jury cannot agree the trial must be repeated.

In criminal cases the action is brought by the state's attorney, or prosecuting officer, and not by a private citizen. The prosecuting attorney makes a preliminary investigation and presents his evidence to a grand jury.[10] If the grand jury decides that the evidence warrants holding the accused for trial, it returns an indictment, he is arrested, and the prosecutor takes charge of the case. The warrant for the arrest must state the offense, the name of the accused, and the circumstances under which the crime was committed. While awaiting trial the accused must remain in jail unless he can induce someone to go his bail. After being indicted and arrested, the accused is taken into court and arraigned. The charge is read and he is directed to plead. If he pleads guilty, the judge pronounces sentence, and the trial is ended. But if he

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pleads not guilty the trial proceeds and is conducted after the same manner as in civil cases.

In the trial of all cases the burden of proof lies with the plaintiff and the state. A man is presumed innocent until proved guilty. Thus in criminal cases, for instance, if the jury cannot agree and do not bring in a unanimous verdict, the prisoner must be released or held for trial before another jury. If found not guilty he must be released, and cannot be again tried for the same offense.

The punishment for crime is usually by fine, imprisonment, or death. In a great many states capital punishment has been abandoned. More of the idea of reformation is permeating our judicial system and the idea of punishment is gradually being eliminated. Most prison sentences, therefore, may be shortened by exemplary behavior.

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SUPPLEMENTARY READING

CHAPTER VII

State Administration

[1] **The Executive Department.**— The organization of the executive department of the state government is different in one important respect from that of the executive department of the United States. In the national government the responsibility for the administration of executive affairs is concentrated in the hands of the President, and the heads of the various departments are all his appointees; they are responsible directly to him for the discharge of their duties, are, within the limits of the law, subject to his direction, and may be removed by him for any reason which to him may seem expedient. The executive power of the state, on the contrary, instead of being concentrated in the hands of the governor, is really divided between him and a number of other state officers, who are generally elected by the people and over whom he has little or no control. They are, in short, his colleagues rather than his subordinates. This method of organizing the executive power has justly been criticized on the ground that it introduces a division of responsibility and lack of coördination in the state administration. Thus, although the governor is charged with the execution of the laws, he usually has no power to direct the attorney-general to institute proceedings against a person or corporation for violating the law, as the President of the United States might do in a similar case. Again, he may have reason to believe that the state treasurer is a defaulter, but in most of the states he has no power to examine into the affairs of the treasurer's office, or to remove him from office. And so with the other principal officers that collectively make up the executive department. The responsibility of these officials is

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usually to the people alone, and responsibility in such cases cannot always be enforced, for they are elected for specific terms, except by the cumbersome method of impeachment.—*J. W. Garner, "Government in the United States," p. 92.*

[2] **The Governor's Power of Investigation.**— A slight step, however, in the direction of strengthening the governor's administrative control has been taken in many states, by vesting in him the power to make special inquiries into the working of the various executive departments. The constitution of Montana, for example, provides that, "The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information at any time, under oath, from all officers and managers of state institutions upon any subject relating to the condition, management, and expenses of their respective offices and institutions, and may, at any time he deems it necessary, appoint a committee to investigate and report to him the condition of any executive office or state institution."

The constitution of Georgia makes it obligatory upon the governor to examine under oath, quarterly or even more frequently, the treasurer and comptroller-general on all matters pertaining to their respective offices and to inspect and review their books and accounts. Occasionally, but not often, the governor is given power to suspend certain state officers during a recess of the legislature. The governor of New York, for example, may temporarily suspend the treasurer whenever it shall appear to him that that officer has violated his duty in any particular; and under the Moreland act of 1908 he may order an investigation of any department. In several states, the various officers are required to make periodical reports or render opinions in writing to the governor, but these are generally perfunctory, or at best of slight significance in advancing the governor's power of control over the administration.—*Chas. A. Beard, "American Government and Politics," p. 494.*

[3] **The Governor and the President.**— Compare the Federal President with the State Governor. The former has foreign policy to deal with, the latter has none. The former has a vast

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patronage, the latter scarcely any. The former has the command of the army and navy, the latter has only that of the militia, insignificant in ordinary times. The former has a post-office, but there is no State postal-service. Little remains to the Governor except his veto, which is not so much an executive as a legislative function; the duty of maintaining order, which becomes important only when insurrection or riot breaks out; and the almost mechanical function of representing the State for various matters of routine, such as demanding from other States the extradition of offenders, issuing writs for the election of congressmen or of the State legislature, receiving the reports of the various State officials. These officials, even the highest of them who correspond to the cabinet ministers in the National government, are either mere clerks, performing work, such as that of receiving and paying out State moneys, strictly defined by statute, and usually checked by other officials, or else are in the nature of commissioners of inquiry, who may inspect and report, but can take no independent action of importance. Policy does not lie within their province; even in executive details their discretion is confined within narrow limits. They have, no doubt, from the governor downwards, opportunities for jobbing and malversation; but even the less scrupulous are restrained from using these opportunities by the fear of some investigating committee of the legislature, with possible impeachment or criminal prosecution as a consequence of its report. Holding for terms which seldom exceed two or three years, they feel the insecurity of their position; but the desire to earn reëlection by the able and conscientious discharge of their functions is a less effective motive than it would be if the practice of reëlecting competent men were more frequent. Unfortunately here, as in Congress, the tradition of many States is, that when a man has enjoyed an office, however well he may have served the public, some one else ought to have the next turn.

The reason, therefore, why the system I have sketched rubs along in the several States is, that the executive has little to do, and comparatively small sums to handle. The further reason why it has so little to do is two-fold. Local government is so fully developed that many functions, which in Europe would

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devolve on a central authority, are in all American States left to the county, or the city, or the township, or the school district. These minor divisions narrow the province of the State, just as the State narrows the province of the central government. And the other reason is, that legislation has in the several States pushed itself to the farthest limits, and so encroached on subjects which European legislatures would leave to the executive, that executive discretion is extinct, and the officers are the mere hands of the legislative brain, which directs them by statutes drawn with extreme minuteness, carefully specifies the purposes to which each money grant is to be applied, and supervises them by inquisitorial committees.— *James Bryce, "The American Commonwealth," Vol. I., p. 537.*

[4] **A Stepping Stone to the Presidency.**— Although less sought after and prized than in "the days of the Fathers," when a State governor sometimes refused to yield precedence to the President of the United States, the governorship is still, particularly in New England, and the greater States, a post of some dignity, and affords an opportunity for the display of character and talents. It was in his governorship of New York that Mr. Cleveland, for instance, commended himself to his party, and rose to be President of the United States. Similarly Mr. Hayes was put forward for the Presidency in 1876 because he had been a good governor of Ohio. During the Civil War, when each governor was responsible for enrolling, equipping, officering, and sending forward troops from his State, and when it rested with him to repress attempts at disorder, much depended on his energy, popularity, and loyalty. In some States men still talk of the "war governors" of those days as heroes to whom the North owed deep gratitude. And since the Pennsylvania riots of 1877 and those which have subsequently occurred in Cincinnati and Chicago have shown that tumults may suddenly grow to serious proportions, it has in many States become important to have a man of prompt decision and fearlessness in the office which issues orders to the State militia.

The decline already noted in the respect and confidence felt for and in the legislatures has latterly, in some States, tended to attach more influence to the office of governor, and has opened,

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to a strong and upright man, the opportunity of making it a post of effective leadership. The people are coming to look upon the head of their commonwealth as the person responsible for giving them a firm and honest administration. When they are convinced of his rectitude, they regard him as the representative of their own best will and purpose, and have in some instances shown that they are prepared to support him against the legislature, and to require the latter to take the path he has pointed out.—*James Bryce, "The American Commonwealth," Vol I., p. 500.*

[5] **The Conference of Governors.**—This is the place for noticing a remarkable novelty in the relations of the States and their respective executive heads to the Nation and its head. In 1908 the President of the United States invited the Governors of all the States to meet him and some persons of exceptional knowledge and experience in a conference at Washington for the purpose of considering a matter of high public consequence, namely, the best method of conserving and turning to full account the natural resources of the country, such as forests, mines, and water power. The object was to enlist the interest of the States in the adoption of a national policy upon this great national matter, and if possible to induce them to legislate each for itself in accordance with some general principles which might also be recognized and carried out by the National Government in its own sphere. The Conference met in the winter of 1908 and again early in 1909. Not only did its deliberations command much attention from the people, but the scheme of bringing the States through their Governors into council with the National administration in a way not provided for by, but in no wise inconsistent with the Federal Constitution, appeared to set a precedent capable of being used thereafter, as a means of arousing public opinion and concentrating it upon some common aim, which might be found difficult to attain through the action of Congress. In 1910 arrangements were made for holding conferences of Governors at stated times in the future.—*James Bryce, "The American Commonwealth," Vol. I., p. 501.*

[6] **The Growth of Administrative Commissions.**—In America, for a hundred years before the Civil War, the governmental

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questions uppermost in men's minds were chiefly, though not exclusively, constitutional; since the war they have been administrative. That is to say, prior to the Civil War questions of independence, of the interrelationship of governmental departments, of state rights, of suffrage, occupied most attention; while, since the reconstruction period, interest has been centered on the relations of the state to great corporations, on capital and labor in their industrial struggles, on state aid in the development of the country's resources, on the methods and measure of taxation, on the protection of the health and morals of the people, and on the furthering of educational, industrial, and philanthropic enterprises. The problems here have been largely those of administration,— of efficient exercise of power by governmental agencies.

This increased administrative activity has sometimes found expression in the laws general in character and requiring no special machinery for their execution; but more frequently a special need — industrial, scientific, educational, philanthropic — has called into existence a special organ of government to supervise, aid, or manage the affair. This is the source of those boards and commissions which have in late years become prominent in all the states, but more particularly in those having the most complex and highly developed industrial organization. These bodies are the latest product of governmental evolution. They have developed since the Civil War, many of them during the last two decades; and a study of their form and action will reveal the tendencies of governmental progress and the advance already made in certain directions toward paternalism and state socialism. — *F. H. White, quoted in Paul S. Reinsch, "Readings on American State Government," p. 222.*

[7] **Corrective and Philanthropic Commissions.**— Under this caption may be grouped such bodies and officers as boards of police and of charity and correction, general superintendent of prisons (Massachusetts), state agent to prevent cruelty to animals (North Dakota). Nearly half of the states have state boards of charities. In all the states having institutions for the defective, dependent, and delinquent classes there are boards of control. Leaving these out of account, the various bodies or officers under this head, with one exception (Massachusetts,

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State Aid), are the result of attempts to centralize administration in the state government,—to supervise and control local authorities. To a certain extent, therefore, they are in opposition to the policy of home rule.

Such work, however, was undertaken reluctantly by the state governments, and only when the abuses under the local governments were too great to be borne. The administration of public charitable institutions, like the almshouses and hospitals for the insane, or corrective institutions, like the jails and prisons, was admittedly bad almost everywhere. This was due sometimes to the poverty of the local communities, but usually to ignorance of actual conditions and to lack of acquaintance with better methods, or to the shortsighted penuriousness of the people of the community.

The state boards of charities in Indiana, Ohio, and New York are doing an incalculable amount of good by inspection and the requirement of reports. It has been found in England, however, after long centuries of trial, and in this country after a considerable period of experience, that the local authorities cannot be relied upon to reform their methods of poor relief, or to stay reformed, if by chance they have a spasm of virtue and improve matters for a while.

The control of the local police by the state is an experiment which has been thoroughly tried in Kansas and partially tried in Massachusetts. In neither state is there a central board, but the members of the local board are appointed by the governor and may be removed by him. This is the reason for placing them among the state officers. It is quite doubtful if the laws are better executed by this arrangement. In actual practice it is found that the governor, as a rule, appoints in each city the kind of a commission the majority of the citizens wish. If a commission is appointed, not backed by the mass of the people, arrests and convictions are very difficult to obtain.

No one can glance over the foregoing activities of the commissions without remarking their varied and important character. They reflect the complexity of modern life and suggest the imminence of a government paternalism more far-

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reaching than our country has known in the past.— *Ibid., pp. 229, 230.*

[8] **Assessment and Equalization.**— Throughout the Union, about seventy-five per cent. of state and local revenues is derived from the general property tax, which in theory is levied on the entire amount of property, real and personal, owned by taxpayers. The first step in administering the general property tax is that of assessment, or placing a valuation upon taxable property. Local assessors are generally elected by the city, township, or county; and these officers inspect and place a value upon the property of each taxpayer. To aid in this work, taxpayers are ordinarily required to make a declaration under oath of the amount of their personal property, these declarations being subject to correction by the assessors.

Real estate and visible personal property (as furniture, stock in trade, live stock, or other farm capital) can be readily discovered by the assessors; but it has proved exceedingly difficult to reach intangible personal property, as notes, bonds, stocks, and mortgages. Hence the most valuable portion of personal property owned by the wealthiest members of the community largely escapes taxation. In the United States as a whole, probably only one-fifth of all personal property is reached under the general property tax. Both real and personal property are assessed far below their true values, real estate being generally rated at from one-third to three-fourths of its actual value.

The work of local assessors is commonly subject to correction by a county board of equalization, since otherwise property in one section of the county may be assessed at a lower valuation than property in other sections, thus placing an unequal burden upon taxpayers. Furthermore, there is generally a State board of equalization charged with the duty of reviewing and equalizing the valuations within the various counties; for if the property in one county is undervalued as compared with the average rate of valuation throughout the commonwealth, the county escapes to that extent from its just burden of State taxation.— *W. B. Guitteau, "Government and Politics in the United States," p. 196.*

[9] **Tax Reforms.**— The reform in taxation most earnestly

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advocated by students of this subject consists in the assignment of definite and exclusive sources of income to each of the several grades of government. Thus to the federal government would be assigned the revenue from customs duties and excise taxes, supplemented in case of need by the federal income tax.

State revenue should be derived from taxation of corporations, inheritance taxes, and licenses. The effort to reach intangible personal property through the general property tax should be entirely abandoned, and the commonwealth should leave to local governments all taxation of real estate. In this way many of the defects of the general property tax would be remedied. The antiquated and unjust poll tax should be abandoned entirely.

The revenue for rural local governments should be derived chiefly from the tax upon real estate, supplemented, if necessary, by a tax upon visible personal property. In the cities large revenues should be derived from franchises and licenses, supplemented in case of need by a small tax upon real estate.— *Ibid., p. 202.*

[10] **The Grand Jury.**— At common law, no one could be tried for a felony unless a grand jury were first satisfied that there was good ground for it. The grand jury consisted of not more than twenty-four inhabitants of the county, and in practice never of more than twenty-three, summoned for that purpose to attend at the opening of a term of court. To authorize a prosecution the assent of twelve of them was required. They heard only the case for the prosecution and heard it in secret, after having been publicly charged by the court as to the nature of the business which would be brought before them. The court appointed one of them to act as their foreman, and he reported back their conclusions in writing, and in one or the other of two forms — by presentment or indictment.

A presentment was a presentation, on their own motion, of an accusation against one or more persons. They were the official representatives of the public before the court, and it might well be that offenses had occurred, and become matters of common notoriety, prosecutions for which no one cared or dared to bring. Such a proceeding was comparatively rare.

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The common course was to pass only on such written accusations as others might submit to their consideration. These were called bills of indictment. If the grand jury believed that there were sufficient grounds for upholding any of them, their foreman endorsed it as "A true bill," and it then became an indictment. If, on the other hand, they rejected a bill of indictment as unfounded, the foreman indorsed it as "Not a true bill," or with the Latin term "*Ignoramus*," and this was the end of it.

The organization and functions of the American grand jury are similar, except that here we have prosecuting attorneys to procure the presence of the necessary witnesses and direct the course of their examination. In the Federal courts almost all criminal accusations, great or small, are, and by the Fifth Amendment of the Constitution of the United States all charges of infamous crimes must be, prosecuted by presentment or indictment. In most of the States the intervention of a grand jury is requisite only in case of serious offenses; in some only in capital cases. It is obvious that it is less needed here than in England, since here it is not within the power of any private individual to institute criminal proceedings against another at his own will, but they are brought by a public officer commissioned for that very purpose and acting under the grave sense of responsibility which such authority is quite sure to carry with it. The grand jury, however, has its plain uses wherever political feeling leads to public disorder.—*Simeon E. Baldwin, "The American Judiciary," p. 235.*

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CHAPTER VIII

STATE FUNCTIONS

THE functions of the state have been greatly extended during recent years. As social conditions become more complex, as industrial organization becomes more intricate and far-reaching, and the stratification of society into economic classes more pronounced, the state is more and more called upon to interfere in what were formerly private activities. The private educational institution of yesterday becomes the public institution of today. The private corporation becomes affected with a public interest and is converted into a quasi-public corporation or gives way to public ownership. Free competition breaks down and state regulation steps in. And thus the functions of the state are gradually enlarged — railways, telephones, telegraphs, waterpowers, packers, breakfast food manufacturers, grocerymen, druggists, plumbers — all become subject to the ever-widening supervision of the state.

For convenience in discussion, these functions of the state have been grouped here in four classes: (1) Those exercised under and in close connection with the police power; (2) those related to crime and its

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treatment; (3) those connected with public education; and (4) those of an economic character.

I. Police Functions

The police functions embrace all those activities engaged in by the state to maintain peace and order, to preserve public safety, to promote public health, and to protect public morals.

(1) Peace and Order. The activity of the state in this connection has already been suggested in the preceding pages, and need only be mentioned here. It passes laws regulating public conduct, defines and punishes crime, maintains jails and penitentiaries, suppresses riots and public disturbances, and does all those things necessary to the enforcement of law and the maintenance of peace and order throughout the state. The agencies through which these are performed are the courts and the police forces of the state — policemen in cities, constables in towns, the sheriff in the county, and the state militia[1] — and if the extent of the disturbances warrant, the federal troops. These functions are all examples of what would be popularly called the exercise of the police power. But the police power of the state extends to an infinitely broader field.[2]

(2) Public Safety. Under the police power, the state enacts laws and regulations designed to preserve public safety and comfort. It prohibits the carrying of concealed weapons; it forbids the sale of poisonous

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drugs unless labeled poison; it prohibits the keeping of explosives in dangerous quantities; it regulates the construction of buildings by limiting their height and prescribing the thickness of walls, number of exits and fire-escapes, and the nature of the plumbing; it forbids the running of animals at large; it orders the muzzling of dogs and the killing of those affected with rabbies and other diseases; it limits the speed of automobiles; it regulates traffic on public highways; it requires safeguards for railroad crossings, safety devices for factories, the examination of steam engineers, and the inspection of boilers and elevators; and in innumerable ways protects life and property from injury and destruction.

(3) Public Health. Many of the functions of the state in the promotion of public health are delegated to the local authorities, but every commonwealth maintains a state health department to supervise their administration, and to enforce the observation of sanitary regulations. It regulates the establishment of quarantine; keeps statistics of births and deaths; prohibits the sale of unwholesome and adulterated foods; forbids the importation of diseased cattle, and inspects and kills those affected with tuberculosis; forbids the use of public drinking cups on trains and in public buildings; prescribes the care of contagious diseases; and enforces many other regulations designed to insure and promote the general health and sanitation of the state. Many states maintain hospitals for the treat-

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ment of contagious diseases. During the last few years a great movement has been started to establish tuberculosis sanitoria, and many states now maintain such institutions for the prevention and cure of those affected with the "Great White Plague." Several states have established state tenement house departments for the supervision of housing conditions within the state, and by law to insure proper lighting and air as well as sanitary facilities. A great many states also regulate the conditions of employment to insure wholesome working conditions, protection from poisonous fumes, and the removal of dust and other substances deleterious to the health of employes.

(4) Public Morals. The state is also interested in the protection of public morals. Nearly all states have laws forbidding the use of profane language, the circulation of obscene literature, indecent exposure and unbecoming conduct on the streets or other public places. All states prohibit prostitution, although the laws are not always strictly enforced. Laws in all states prohibit gambling and other immoral amusements, suppress lotteries, forbid cruelty to animals, and endeavor to prevent practices that tend to lower the general moral tone of the community. Of such a nature are the laws requiring the closing of business houses on Sunday, and regulating the liquor traffic.[3] Most states impose a heavy excise tax on the sale of liquor and require a license for saloons. Nine states now prohibit the manufacture and sale of intoxicating

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liquors within their borders — Maine, Kansas, North Dakota, and Oklahoma by constitutional provision, and Mississippi, North Carolina, Georgia, Florida, and Tennessee by statute. Over half of the states leave the question to the decision of the localities themselves. Under provisions of local option,[4] the counties, cities, villages, and other divisions may vote upon the prohibition of the traffic, and the same is decided by the majority vote. With the coming of the moving picture machine, some states provide for the censoring and inspection of moving picture films. Some forbid the sale of cigarettes. All of these laws are aimed at the things that tend to lower the general moral standard of the community, and seek to preserve the same supervision over wrongdoing that the state exercised before it was separated from the church.

II. Functions Related to Crime and Its Treatment

The chief service of penal and reformatory institutions is the protection of society and the reform, if possible, of the offender. In addition to the function of apprehending and trying violators of the law, it is a function of the state to maintain institutions for their retention and reformation. In America, owing to the adverse feeling in regard to state encroachments on local government, both the police and the police institutions have been left largely to the local community. The places of imprisonment comprise lock-ups or police stations, jails, workhouses, reformatories, and

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prisons or penitentiaries. Lock-ups and police stations are local institutions used chiefly for the retention of arrested persons pending trial. Jails are usually county institutions which serve as police stations and prisons for those serving short sentences, while workhouses are local institutions for the punishment of minor offenses. Reformatories and prisons are state institutions, the one for the reformation of the younger malefactors, the other for the keeping of convicted criminals.

(1) State Prisons. In colonial times the imprisonment of offenders was little used, all serious offenses being punished by death, and minor offenses by the stocks or whipping-post. And for many years after the establishment of state prisons, they were little more than cellars and dungeons. But during recent years the idea of punishment has given way to reformation even in the penitentiaries. Very remarkable advances have been made in some states, as for instance in Iowa under the influence of Warden Sanders. State prisons are reserved for the worst criminals and those sentenced to the longest terms. Two systems have been used in their management, the separate system and the congregate system. The former has been used in the Eastern Penitentiary of Pennsylvania and in Europe, but the latter has had the wider application in the United States. Under the separate system the prisoners eat, sleep, and work in separate cells, not being allowed to mix with other prisoners. In the congregate system the men are placed in separate cells at

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night, but work and dine together. Separate prisons are sometimes provided for women.[5] Solitary confinement now is rare, and premiums are placed on good behavior. Employment is now almost universally provided. "Regular, rational, and productive industry is now universally recognized," says Henderson, "as an essential factor in reformation. Many prisoners have grown up without skill and without habits of industry, and these faults and defects have brought them to disgrace and pain. If they are ever to become useful citizens and coöperators, instead of parasites and robbers, they must gain both skill and good habits." In some prisons industries are carried on, such as binder twine plants, broom factories, and similar industries, while in others the convicts are contracted out to work on roads, crush stone, and perform similar work.[6]

In most prisons systems of marking and grades have been installed. The prisoners are classified according to their behavior and industry, and are able to secure promotion from one grade to another. The different grades offer various differences in treatment and compensation, and frequently in accommodations, and by exemplary conduct they can materially shorten their terms of confinement.

(2) Reformatories. With the classification of criminals in regard to their ultimate reformation, there have developed a large number of reformatory institutions. One class of such institutions are known as state reformatories. There are over seventy such re-

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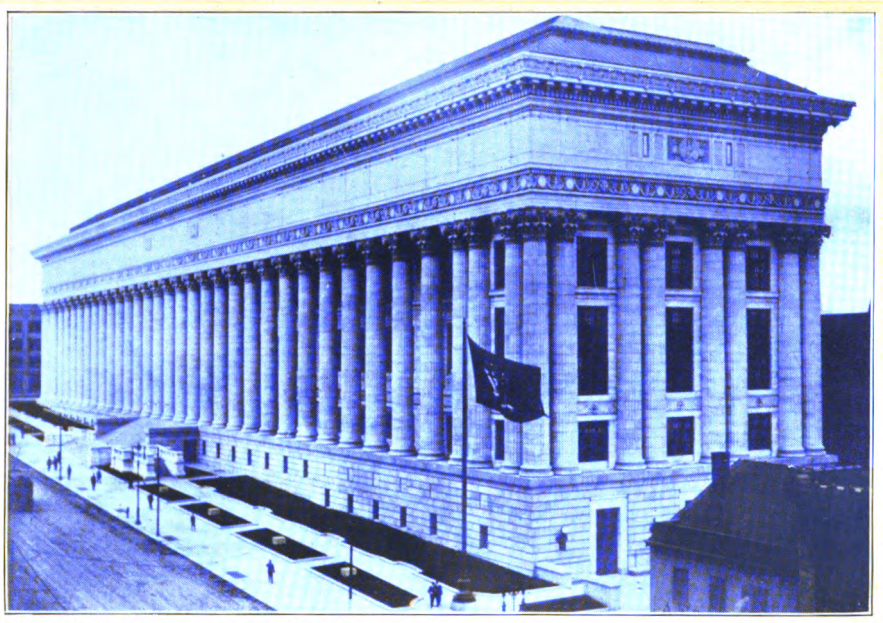

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THE STATE EDUCATIONAL BUILDING, ALBANY, N. Y.

The center of all of the educational work of the State.

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formatories in the United States at the present time. One of the most notable of these institutions is the Elmira Reformatory of New York.[7] Westboro, Massachusetts, Coldwater, Michigan, and Lancaster, Ohio, also have model institutions. These are maintained for the younger classes of criminals and for the less serious crimes. They are intermediate prisons. Industries are carried on, and educational facilities are offered the inmates. In fact the reformatories partake largely of the nature of schools in many ways. They differ, however, from the regular industrial schools.

(3) Industrial Schools. Most states maintain, in addition to their reformatories, industrial schools both for girls and boys. These are juvenile institutions. When parental duties are neglected, the state must step in to train the child. It is sometimes necessary to separate the child from its parents, and for this reason the state maintains industrial schools, or parental schools as they are sometimes called. Violations of law which constitute penitentiary offenses if perpetrated by adults, when committed by minors are usually punishable by commitment in such institutions. Less heinous offenses usually require treatment through the juvenile court and probation. The necessity of separating the sexes requires the establishment of separate schools for girls and boys.

In addition to regular industrial schools, many states maintain various other semi-educational, semi-reforma-

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tory schools, such as trade schools, day industrial schools, boarding schools, and houses of refuge, all having very much the same object — the reformation and training of juvenile delinquents.

(4) Another function of the state is the maintenance of institutions for the care of defectives and dependents. These institutions should not be classed under criminal institutions, but in their nature they are closely connected with such. Most important are the asylums or hospitals for the insane. Every state has one or more such institutions. They serve as detention homes for the incurable insane and hospitals for the treatment of temporary and curable insanity. Homes for the feeble minded, the epileptic, the deaf and dumb, and the blind are also maintained by most states. Soldiers' homes are also provided by all of the older states.

III. Public Educational Functions

The educational functions of the state are apparent to anyone who stops to consider the subject. The administration of the public school system has already been discussed. The department of education is one of the important branches of state administration. The state of New York has just completed recently a separate magnificent building for the housing of its department. (See page 1295.) The state department of education has the supervision of the primary and secondary school systems of the state, but the localities of the state furnish the schools. The state, however,

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furnishes the facilities for training the teachers. It is a function of the state to furnish the higher educational facilities. Thus all states provide normal schools for the training of teachers. These institutions are usually scattered over the state to be easily accessible to all parts. In many states county training schools are being provided.

The establishment and maintenance of universities in America is almost exclusively a function of the state. Within the last twenty-five or thirty years only two universities of any importance have been founded by private individuals — University of Chicago and Leland Stanford, Jr. But every state maintains a university or endows one; and many of these institutions have acquired international fame. The Universities of Michigan, Wisconsin, Minnesota, and Ohio are rivaled by few private institutions. The enrollment of several has passed the five thousand mark. All branches of technical and professional training — law, engineering, agriculture, medicine, dentistry, pharmacy, mining — are included in the curriculum. In the past separate institutions have usually been provided for agriculture and mining, but the tendency at the present time is to combine all colleges at the university. The University of Wisconsin has made a great departure and established a university extension division for teaching by correspondence and performing other general welfare work.[8]

In addition to the regular educational institutions,

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some states have established special schools, such as schools for the deaf and dumb and for the blind, and various special technical schools. Nearly all states maintain state law libraries, many maintain historical libraries, and some maintain museums.

IV. Economic Functions

Space permits merely of an enumeration of some of the economic functions which the state is called upon to perform, but the mere mention of many of those functions is sufficient to demonstrate their importance.

(1) Public Lands and Forests. Every state has had the distribution of public lands within its borders. Many states still retain reservations. Niagara Falls, New York, and Valley Forge, Pennsylvania, are examples. Some states have state forests; some have canals; and all own a great deal of land in connection with public buildings. The lumber supply of many states is exhausted and forestry departments have been instituted to reforest by scientific methods large tracts of waste land. This function of the state is of great importance not only in connection with lumber interests but as a preventive against floods.

For the preservation of fish and game most states have passed laws regulating fishing and hunting, and many have established fish hatcheries to restock lakes and streams. To promote agricultural interests, the

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state inspects live stock, holds farmers' institutes, and in various ways promotes the farm and dairy products of the state.

(2) Regulation of Trades and Industries. The state performs important functions in connection with the protection of labor. It collects statistics of labor conditions; it regulates lighting, ventilation, and the sanitary conditions of factories; it prevents accidents by requiring guards on machinery, elevators, and dangerous passage ways, and inspects boilers and safety devices; it regulates the hours of labor; it prohibits the unhealthful employment of women and children; and it limits the age for child labor. In many states employment bureaus are maintained. Several states provide for boards of arbitration in the settlement of labor troubles, and an increasing number are providing for workingmen's compensation and insurance.

(3) Regulation of Corporations. Not only does the state prescribe the manner of incorporation, but it regulates the operation of public service corporations. It requires railroads, telephone companies, telegraph companies, express companies, water works, gas and electric companies, and other businesses affected with a public interest, to furnish service at reasonable rates. It also regulates the service which they must give, and in many states the sale of their securities, and the payment of dividends. It also regulates the management of the plant itself in some cases, and provides for purchase by the government under certain conditions.

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(4) Regulation of Other Businesses. The state regulates banks, insurance companies, and many businesses in which the individual cannot be sure of justice under conditions of competition. Thus the state inspects weights and measures; it regulates the sale of drugs; it inspects meat; it regulates hotels; it inspects bakeries; it prohibits frauds and regulates trusts, corners, pools, and other monopolies. In a hundred ways the state steps in to protect the individual where he is helpless to protect himself. The economic functions of the state have only just begun; with the growing complexity of society, they are sure to increase indefinitely.

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SUPPLEMENTARY READING

CHAPTER VIII

State Functions

[1] **The State Militia.**— The immediate purpose of the militia is to act as a sort of State police force on which the governor may call in case of serious riots or insurrection. Under an act of Congress, the militia liable to be called out by the President consists of all able-bodied male citizens between the ages of eighteen and forty-five, an aggregate of over fifteen million men. This entire number consists of two classes; a small force (about 100,000 men) of organized militia (known as the national guard and the naval militia); and a vast force of reserve militia, called upon only in time of emergency.

The national guard is in no sense a standing army, but rather a citizen-soldiery, its members pursuing their ordinary vocations and coming together for drill a few times each month at the armories provided by the State government. Each year the entire national guard of the State is assembled in an encampment for the purpose of inspection and drill. Enlistment is voluntary, usually for a period of three years.

Congress prescribes the rules for the organization, armament, and discipline of the militia; and these are now the same as for the regular army. The militia may be called into the service of the United States in order to execute the laws of the Union, suppress insurrection, and repel invasion. Except when called into the federal service, the commander-in-chief is the governor, assisted by his military staff, at the head of which is the adjutant-general. Other officers are appointed by State authorities, or elected by the men.— *William B. Guitteau, "Government and Politics in the United States," p. 133.*

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[2] **The Police Power.**— The police power is the governmental power to make all laws necessary to preserve and protect the public peace, public safety, public health, and public morals. It is universally conceded to justify the destruction or abatement, by summary proceedings, of whatever may be regarded as a public nuisance. For example, under this power government may order the slaughter of diseased cattle; the destruction of decayed or unwholesome food; the regulation of railways and other means of public conveyance; the suppression of gambling and the liquor traffic; and the confinement in hospitals of the insane or those afflicted with contagious disease. Even beyond this, government may interfere wherever the public interests demand; and hence a large discretion is vested in the legislature to determine what the interests of the public require, and the measures necessary for their protection.— *Ibid, p. 129.*

[3] **Control of the Liquor Traffic.**— The regulation of the liquor business usually devolves upon the cities and counties; but the laws thus carried out are invariably made by the State, and may be either in the form of statutes or embodied in the constitution. There are five main systems in use, three of which are now in force in all but two states. One of the others is the Ohio system of taxing saloons, just as some other kinds of business are taxed. The second exception is the county dispensary system which has replaced in South Carolina the state dispensary. The counties are now allowed to have dispensaries or local prohibition. The three which are much more common are the license system, state prohibition, and local option, which is a form of the license with local prohibition.

Most of the states permit licenses to be granted to liquor saloons upon certain conditions. Until recently the payment of the license "fee" was the principal one, the "fee" being moderate in amount, but there has been a decided tendency to replace low license with high license, to prohibit the location of saloons near churches and schools, and to be more particular about the parties to whom licenses are given. More stringent laws have also been made relative to the daily hours of opening and closing side entrances and closing on Sundays, election days and holidays, but all of these things have counted for little where public sentiment

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has not compelled at least a partial enforcement of the law, which happily has occurred in most places. The larger license fees have brought more money into the treasuries, but have increased the number of illegal liquor dealers, except where perfect administration of the law was possible. Violation of many of these regulations is unfortunately still the rule, particularly where the police force overlooks the law-breaking for a consideration, or to avoid conflict with the liquor organization.— *Roscoe L. Ashley, "The American Federal State," pp. 375-76.*

[4] **Local Option.**— In most of the states the towns, districts, or counties are permitted to decide, by popular vote, whether they will have license or no license. By this method local prohibition exists over one-half of the area of the United States, but only in those parts where it is favored for social or business reasons. It can readily be seen that the enforcement of the law in these localities is likely to be better than that of prohibition states; but the difficulties of enforcement are apt to be greater because importations are easy. Although free from the glaring defects that characterize the administration of the anti-saloon law in states that have prohibition, local option, nevertheless, encounters much the same class of difficulties as those found under prohibition.— *Ibid, p. 377.*

[5] **Prisons for Women.**— These institutions should be under the government and administration of competent women, and absolutely separated from prisons for men. Industries adapted to women should be carried on. Discharged prisoners should be carefully watched over for many months, by agents of the administration, until they have been fully restored to good habits. Either the indeterminate sentence or a system of conditional liberation should give to the superintendent of such a prison control long enough to make the moral treatment thorough and effective.

Hardened thieves and prostitutes should be held under progressive and cumulative sentences for public security. Short terms of imprisonment for such characters have no reformatory value, and social protection requires their permanent segregation.

In no case should reform schools for girls under eighteen years of age be connected, in any way, with prisons for women. Such

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schools will be considered later, in the chapter devoted to juvenile offenders.

In the best prisons for women, there is, as in men's prisons, a system of grades, marked by distinctions of dress, diet, tableware and treatment. A period of probation is passed in cellular isolation in a well-lighted and well-ventilated, but austerely plain room. There the woman who has been brought away from the wild and tumultuous life of passion is permitted to become quiet; she is shut off from the news of that mad world which has ruined her happiness and character; she gradually becomes hungry for company, and glad to have visits from the officers; cases of delirium tremens and insanity are discovered and treated; and thus preparation is made for the next stages of discipline. Members of different grades are not permitted to speak to each other. They are all taught to think, to consider, to fill their minds with new and higher images and materials of reflection, and they are trained in some useful industry. Religion, in its simplest and most universal forms, is made to enfold them as an atmosphere full of light, mercy and hope. "Ambition, without which no reform is possible; self-respect, which is the keynote of character; self-control, which is character,— have been gained by many an unstable, sinful, or despairing soul simply by the purposeful effort to attain the best rank in her little world."— *Charles Richmond Henderson, "Dependent, Defective, and Delinquent Classes," p. 299.*

[6] **The Contract System.**— The prison authorities make contracts with manufacturers for a certain price per day for each laborer, the prisoners working under the direction of the agents of the contractors. The machinery may be supplied by the state or by the contractors, according to agreement. For some reasons this plan has been found a financial advantage to the state. Men who are engaged in the business of manufacturing certain kinds of goods acquire skill in purchase of raw material, in the organization of a shop, and in the marketing of products, which is difficult for a warden to acquire in addition to the many other forms of knowledge which he must possess. For these reasons the private contractor can sometimes, perhaps generally, secure better financial results than the average warden. If the costly machinery is put

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in by the contractors, the state is relieved of that heavy investment and does not run the risk of market gluts and changes in prices of materials. The contractors secure a good day's work, in return for the price paid the state, by various devices, as presents of tobacco, money rewards for extra labor, and other inducements which appeal to hope. Contractors have generally discovered that hope and reward are more stimulating and sustaining motives than terror.

But, in spite of such advantages, the contract system, is falling into disuse because of certain inherent disadvantages. Economically it is criticised for its tendency to mass competitions with free labor at certain points, in special lines of production, and this objection comes from the wage-workers as well as from the competing manufacturers. The opposition to this system on economic grounds has led to legislation in many states forbidding the use of the system in prisons.

Another kind of objection is urged from the standpoint of discipline and reformatory purposes: the outside contractor interferes with the direction and control of those who are charged with the task of reforming the criminal. It is difficult, and sometimes impossible, to fit this external factor of control into the system of prison education. The minute division of labor made necessary by the contract system interferes with that larger educational scheme which trains a man to meet the vicissitudes of varying industry in the world. This objection has special force where the prisoners are young and have not yet specialized their industry or learned a trade. A young man is not much helped to cope with the intricate conditions of modern industry by being taught a trick of making a tenth part of a brush or the seventeenth part of a shoe.—*Ibid, p. 295.*

[7] **The Elmira Reformatory.**— The Elmira Reformatory was opened in 1876, when the first inmates were received. The institution, however, did not take its distinctive position until 1877, when the bill providing for the "indeterminate" sentence was incorporated in the statutes.

According to this bill, convicts to Elmira cannot be sentenced for any definite term, altho a maximum term can be given. The length of residence of the convict is left wholly to the

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decision of the management, and this gives the key to the whole institution. On his arrival the convict is carefully examined as to his history, mental and physical characteristics, and all circumstances of his case, and is then treated as a moral patient, built up into self-supporting character as rapidly as possible, and only allowed to go out (unless the maximum term intervenes) when in the opinion of the management he is capable of self-supporting citizenship. He is, however, even then only allowed to go out for the first six months on parole, being kept in close correspondence with the management until he has proved himself worthy of absolute freedom.

Such is, in brief, the thought of the reformatory. But the way the convicts are built up into character is by teaching them how to work. In 1888 the New York Legislature passed the Yates Bill, practically prohibiting the industries then being carried on at Elmira by convicts, and absolutely forbidding the application of power machinery to prison labor, to prevent its competition with outside labor. It forced the prisoners into immediate idleness, and the management scarcely knew what to do. But in a few hours the whole industrial life of the institution was revolutionized. All thought of making profit was given up and industrial classes were commenced simply for the good of the men. The whole mass of convicts, too, for sake of exercise, were brought out and drilled in military exercise. The result of both measures has been good beyond all expectation. The military exercise gives the convicts a carriage and bearing, both mental and physical, that makes them wholly different. To-day they form a notable regiment of men,— organized, officered, and commanded by those convicts proving themselves the most worthy, and with their own band, and all appointments of a regiment.

The reformatory population is divided into three grades; first, second, and third. Each man, upon admission to the institution, is placed in the second grade, from which, by making a good record in demeanor, school of letters, and trades-school, he may rise to the first grade, or, by failure to do this, may drop to the third. Six months of proper institutional record in the second grade insures promotion to the first grade; a like six months in

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NEW YORK STATE REFORMATORY, ELMIRA, N. Y.

Considered as a model state reformatory.

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the first grade entitled the prisoner to consideration by the board of managers for parole. For improper demeanor, if sufficiently serious, reduction in grade is possible at any time. Poor school work, if below certain prescribed standards, and persisted in for a month or more, also necessitate grade reduction. After reduction to the third grade, at least one month of proper record is required before eligibility for promotion can be considered:— *W. D. P. Bliss, "Encyclopedia of Social Reform," p. 441.*

[8] **University Extension.**— University extension has long been connected with colleges, but such have been the aristocratic influences of education (and there are no greater aristocrats found anywhere than in education) that it has died down in other states until it has become simply a name.

The increasing spirit in Wisconsin demanded that the university should serve the state and all of its people and that it should be an institution for all the people within the state and not merely for the few who could send their sons and daughters to Madison; thus was brought about the establishment of the extension division about five years ago.

The University of Wisconsin during these few years has shown the world what constitutes real university extension. It has accomplished what many schools have tried to accomplish for many years with but indifferent results. It made what has been an ideal a practical reality. It actually did and does bring the university to every fireside. It actually has shown all universities a means for shedding the light of knowledge from within its walls to every home.

The distinctive feature of this department is that it has a faculty, an administration and an appropriation of its own. It now spends $125,000 a year. Under the old system of university extension, a professor gave part time at the university and delivered a few sporadic lectures in the field. Under this new extension arrangement, professors of the highest rank are sent out into the villages, shops and factories as practically traveling teachers, meanwhile bringing the students in the field in touch with the university by means of correspondence studies. There are several centers or stations from which the work can expand into the surrounding localities established throughout the state

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for this work. General divisions with regular faculty are formed at the university, notably in engineering, mathematics, drawing, business administration, and to some degree in languages. This is nothing new; private enterprise has been doing this for some time but it is obvious that the state can do more than any private enterprise.

Some idea of how extensive and diverse the work of the University Extension division is can be obtained from the following statistics:—

There are now about 5000 active students taking the correspondence work; ninety-eight professors and instructors are supervising this work. Besides this, there are fifty-seven local classes in organized districts which the professors visit.

In the department of debating and public discussion about 80,000 articles are lent out annually throughout the state.

In the department of general information and welfare many institutes are held and much diverse work is done. Under its auspices were conducted the Milwaukee baker's institutes, the institute of municipal and social service of the same city, which ran twenty-one weeks last year and 140 conferences and lectures. The Wisconsin conference of criminal law works in connection with this department, as does also the Wisconsin conference of charities and corrections. An anti-tuberculosis exhibit, in cooperation with the Anti-Tuberculosis association, was carried on by this department, which reached some 112,000 people in this state. In all, nearly 500 lectures were given under this department. This same department maintains the municipal reference bureau which answers 1500 questions a year from many villages and cities throughout the state and which does much to organize the civic interest of these places.

The bureau of civic and social center development is also under this division. A national conference was held at Madison, under the auspices of this bureau, and some sixty-four communities or districts were assisted in bettering social center facilities. A lecture bureau sent out lecturers last year to some ninety communities in the state, with a total of 153 lectures.— *Charles McCarthy, "The Wisconsin Idea," p. 131-134.*

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QUESTIONS FOR REVIEW. PART IV

1. What can you say of the importance of state government? Explain in what ways the colonial governments served as models for the state governments. How are constitutions adopted? What do they contain? What is the "Bill of Rights"? In what ways may state constitutions be amended? What is the relation of the constitution to the government of the state? To statute law? To the courts? To what rights are the states entitled as members of the Union? What obligations do they incur? Discuss the powers of the state. How are new states admitted?

2. What powers of government are given to the governor? Is the office becoming more or less important? Explain. Describe the organization of the state legislature. Describe the work of committees. Explain the procedure by which a bill is introduced and becomes a law. Explain and give the purpose of the lobby. What limitations are imposed on the powers of the legislature by the national constitution? The state constitution? Describe the organization of the state courts.

3. Explain the relation between the governor and the administrative system of the state. What is the importance of his appointive power? Of his military

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power? What are the duties of the lieutenant-governor? The secretary of state? The attorney-general? The superintendent of public instruction? What are the advantages of administrative commissions? Why are they criticised? Describe the steps taken in the trying of a criminal case. What are the duties of a grand jury?

4. What functions does the state perform in the promotion of public health? In the protection of public morals? What is the purpose of the state reformatory? Of the industrial school for girls? Why should criminals be made to work? Mention some systems of convict labor. What functions does the state perform with reference to defective classes? Describe some of the economic functions which the state performs.

SUBJECTS FOR SPECIAL STUDY

1. The Growth of Administrative Commissions.

2. The Conservation of State Resources.

3. The Short Ballot in connection with State Administration.

4. Industrial Education.

5. Workingmen's Compensation Legislation.

6. Prison Reform Movements.

7. The Regulation of Public Utilities.

8. Income, Inheritance, and Single Tax proposals

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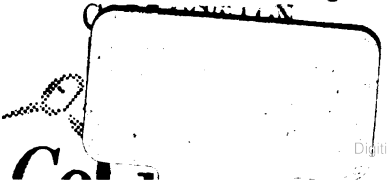

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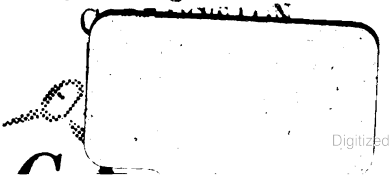

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